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ABSTRACT

These transcripts provide testimony regarding the reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965. The first part of the transcripts presents testimony from members of national educational associations urging legislators to show a stronger commitment to helping education professionals improve their skills and to adopt a new research project to improve learning for special needs children. The major portion of the transcripts contains statements from school administrators, other experts from educational agencies and delivery systems, and legislators concerning: (1) the role of ESEA programs in school reform and the improvement of K-12 education; (2) the reauthorization and improvement of Chapters 1 and 2; (3) the Dwight D. Eisenhower Mathematics and Science Education program and techniques of successfully integrating technology into schools; (4) the need for coordinated education, health, and social services as a means of better serving young people; (5) recommendations for improving women's equity in education; and (6) issues related to the education programs for Native Americans, Alaskan Natives, and Native Hawaiians. (SM)

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ED 372 819

HEARINGS ON REAUTHORIZATION OF H.R. 6: THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

HEARINGS HELD IN WASHINGTON, DC, MARCH 4, 18, 25, 31, APRIL 21, AND 27, 1993

Serial No. 103-30

Printed for the use of the Committee on Education and Labor

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2

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CONTENTS

Page

Hearings held in Washington, DC:

- The Role of ESEA Programs in School Reform, March 4, 1993 1
- National Association Testimony, March 18, 1993 101
- The Dwight D. Eisenhower Mathematics and Science Act and Technology in Schools, March 23, 1993 231
- Coordinated Services, March 31, 1993 317
- Women's Equity in Education, April 21, 1993 415
- ESEA Programs Serving Native Americans, Alaskan Natives, and Native Hawaiians, April 27, 1993 565

Statement of:

- Bryant, Anne L., EdD, Executive Director, American Association of University Women, Washington, DC and Chair, National Coalition of Women and Girls in Education; Marcia D. Greenberger, Co-President, National Women's Law Center, Washington, DC, accompanied by Ellen Vargyas and Deborah Brake; and Walteen Grady Truely, President/CEO, Women and Foundations/Corporate Philanthropy, New York, NY 429
- Butterfield, Scott, President, National Indian Education Association, Lincoln, NE; Carol L. Barbero, Navajo Community Controlled School Boards, Washington, DC; and Myron B. Thompson, Kamehameha Schools, Honolulu, HI 571
- Casserly, Michael, Executive Director, Council of the Great City Schools, Washington, DC; Sister Lourdes Sheehan, R.S.M., U.S. Catholic Conference, Washington, DC; Brenda Welburn, Deputy Director, National Association of State Boards of Education, Alexandria, VA; and E. Robert Stephens, National Rural Education Association, Burtonsville, MD 102
- Lowey, Hon. Nita, a Representative in Congress from the State of New York; Hon. Scotty Baesler from the State of Kentucky; and Hon. Robert E. Andrews from the State of New Jersey 319
- Marx, Ronald W., Professor of Education and Chair, Educational Studies Program, School of Education, University of Michigan, Ann Arbor, MI; Linda G. Roberts, Senior Associate, Science, Education, and Transportation Program, Office of Technology Assessment, Washington, DC; Andrew Zucker, Program Manager, Science and Mathematics, SRI International, Arlington, VA; and Mary Jane Stanchina, Executive Director, Six District Educational Compact, Tallmadge, OH 232
- Mattocks, T. Chris, Superintendent, Idaho Falls School District 91, representing American Association of School Administrators; Robert F. Chase, Vice President National Education Association, Washington, DC; and Boyd W. Boehlje, Vice President, National School Boards Association, Pella, IA 3
- Reynolds, Dorothy M., President, Community Foundation of Greater Flint, Smart Start Program Grantee, Flint, MI; Rowlan Lillard, Principal, Gundry Elementary School, Smart Start Site, Flint, MI; Jeanne Jehl, Administrator on Special Assignment, New Beginnings Program, San Diego, CA; and Barbara Curry, Commissioner, Department of Social Services, Lexington-Fayette Urban County Government, Lexington, KY 342
- Schroeder, Hon. Patricia, a Representative in Congress from the State of Colorado; Hon. Olympia J. Snowe, a Represenatative in Congress from the State of Maine; and Hon. Patsy T. Mink, a Representative in Congress from the State of Hawaii 416

Page

Prepared statements, letters, supplemental materials, et cetera:
- Bannister, Rosella, Director, National Institute of Education, Eastern Michigan University, Ypsilanti, MI, prepared statement of 199
- Barbero, Carol L., Navajo Community Controlled School Boards, Washington, DC, prepared statement of 598
- Boehlje, Boyd W., Vice President, National School Boards Association, Pella, IA, prepared statement of 31
- Bryant, Anne L., EdD, Executive Director, American Association of University Women, Washington, DC and Chair, National Coalition of Women and Girls in Education, prepared statement of 433
- Butterfield, Scott, President, National Indian Education Association, Lincoln, NE, prepared statement of 578
- Casserly, Michael, Executive Director, Council of the Great City Schools, Washington, DC, prepared statement of 106
- Chase, Robert F., Vice President National Education Association, Washington, DC, prepared statement of 20
- Curry, Barbara, Commissioner, Department of Social Services, Lexington-Fayette Urban County Government, Lexington, KY, prepared statement of 376
- Durbin, Kathy, MA, NCSP, President, Mational Association of School Psychologists, Silver Spring, MD, prepared statement of 213
- Fortune, Rex, PhD, Legislative Chairperson, National Alliance of Black School Educations, prepared statement of 95
- Greenberger, Marcia D., Co-President, National Women's Law Center, Washington, DC, prepared statement of 445
- Institute for Educational Leadership, Washington, DC, prepared statement of 395
- Jehl, Jeanne, Administrator on Special Assignment, New Beginnings Program, San Diego, CA, prepared statement of 364
- Lowey, Hon. Nita, a Representative in Congress from the State of New York, prepared statement of 321
- Marx, Ronald W., Professor of Education and Chair, Educational Studies Program, School of Education, University of Michigan, Ann Arbor, MI, prepared statement of 235
- Mattocks, T. Chris, Superintendent, Idaho Falls School District 91, representing American Association of School Administrators, prepared statement of 6
- Mink, Hon. Patsy T., a Representative in Congress from the State of Hawaii, prepared statements of:
  - April 21, 1993 421
  - April 27, 1993 567
  - Additional material submitted by 478
  - Letter by Hawaiian delegation to Secretary Riley, submitted by 569
- Molinari, Hon. Susan, a Representative in Congress from the State of New York, prepared statement of 425
- National School Boards Association, Alexandria, VA, prepared statement of 410
- New Mexico State Department of Education, prepared statement of 70
- Payne, Hon. Donald M., a Representative in Congress from the State of New Jersey, prepared statement of 102
- Reynolds, Dorothy M., President, Community Foundation of Greater Flint, Smart Start Program Grantee, Flint, MI, prepared statement of... 346
- Roberts, Linda G., Senior Associate, Science, Education, and Transportation Program, Office of Technology Assessment, Washington, DC, prepared statement of 246
- Sawyer, Hon. Thomas C., a Representative in Congress from the State of Ohio, prepared statements of:
  - March 4, 1993 2
  - April 21, 1993 426
- Schroeder, Hon. Patricia, a Representative in Congress from the State of Colorado, prepared statement of 416
- Sheehan, Sister Lourdes, R.S.M., U.S. Catholic Conference, Washington, DC, prepared statement of 132
- Snowe, Hon. Olympia J., a Representative in Congress from the State of Maine, prepared statement of 419
- Stanchina, Mary Jane, Executive Director, Six District Educational Compact, Tallmadge, OH, prepared statement of 273

Page

Prepared statements, letters, supplemental materials, et cetera—Continued
- Stephens, Robert, National Rural Education Association, Burtonsville, MD, prepared statement of 167
- Thompson, Myron B., Kamehameha Schools, Honolulu, HI, prepared statement of 626
  - Additional material submitted for the record 656
- Truely, Walteen Grady, President/CEO, Women and Foundations/Corporate Philanthropy, New York, NY, prepared statement of 461
- Unsoeld, Hon. Jolene, a Representative in Congress from the State of Washington, prepared statement of 556
- Wilhoit, Gene, Executive Director, National Association of State Boards of Education, Alexandria, VA, prepared statement of 150
- Wilson, William Julius, University of Chicago, prepared statement of 99
- Woolsey, Lynn C., a Representative in Congress from the State of California, prepared statement of 427
- Wurf, Mildred Kiefer, Washington representative, Girls Inc., Washington, DC, prepared statement of 557
- Zucker, Andrew, Program Manager, Science and Mathematics, SRI International, Arlington, VA, prepared statement of 258

HEARING ON H.R. 6: THE ROLE OF ESEA PROGRAMS IN SCHOOL REFORM

THURSDAY, MARCH 4, 1993

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., Room 2175, Rayburn House Office Building, Hon. Dale E. Kildee, Chairman, presiding.

Members present: Representatives Kildee, Sawyer, Owens, Reed, Becerra, Green, Goodling, Gunderson, Petri, and Cunningham.

Staff present: Susan Wilhelm, staff director; Lynn Selmser, professional staff member; Diane Stark, legislative specialist; Jeff McFarland, legislative counsel; Margaret Kajeckas, legislative associate; and Tom Kelley, legislative associate.

Chairman Kildee. The subcommittee meets this morning for the next in a series of hearings on the Reauthorization of the Elementary and Secondary Education Act.

Today, we will hear recommendations for how K-12 education can be improved from witnesses representing educational organizations. Today's witnesses are: Dr. T. Chris Mattocks, representing the American Association of School Administrators; Mr. Robert Chase, vice president of the National Education Association; and Mr. Boyd Boehlje, vice president of the National School Boards Association.

I have great respect for all of these organizations. They have contributed much to not only the professional development of their own members, but to education in this country.

In a few minutes, I will have to leave, and I hate to do that because I really love and profit by these hearings, being personally present. But as most of you know, I am also a member of the Budget Committee. I used to enjoy serving on that Budget Committee when my good friend, Bill Goodling, was also on that Budget Committee because we used to peel some more money away for education, but he is not on the committee anymore, and my task is much more difficult over there.

As a matter of fact, this morning there is pending an amendment to cut Function 500, which would give education $600 million this year and $5 billion over the next 5 years, and my task is to get us there. It's like a triage system in a hospital. That's where the emergency is right now, the greatest emergency, and I have to go over there to try to save those dollars.

I will be turning the chair over to another dear friend of mine, Congressman Tom Sawyer of Ohio, who will chair the rest of the hearing. But I will leave in a few minutes and I will turn now—by the way, you have to get over there because with the reform in the Congress, everyone is equal, and if you aren't there, the table is such a size that there is not enough room for all. This is the Democratic Caucus over there. It's some Democrats who want to cut $600 million.

Mr. GOODLING. I'm glad he corrected that, everybody is equal.

Chairman KILDEE. There is not enough room at the table for all the Democrats. I walked in there 5 minutes late yesterday and found there was no room at the table for Dale Kildee, and I really literally found out what it means to be at the table, so I'm going to get over there and grab my rightful spot today.

I would like to turn now to my dear friend and good friend of education, Mr. Goodling.

Mr. GOODLING. I would just tell the Chairman that I expect him to do equally as well without my being there as we did the last several years when we were there together. We will hold you totally responsible for what happens to Function 500, as far as the budget is concerned.

I, too, am glad for these hearings. I have been one for the last, I don't know how many years, who has been saying we have to stop saying that ESEA I or Title I is motherhood, ice cream, and all those good things, and that Head Start is motherhood and ice cream, because neither are nearly as good as they are ever going to have to be if we are ever going to be successful.

Too long in the past, we keep talking about access, access, access, and just give us more money and we will cover more people, and we will cover them with the same stuff we have covered them with in the past, which apparently hasn't been good enough. My hope would be that we are beyond that stage now, and now we talk only in terms of quality. If we can get our auditors only to look for quality in programs, rather than whether every penny goes exactly where they think we meant it to go, perhaps we will give a better education to youngsters in the programs that we cover.

Having said that, I shall save the rest for later.

Chairman KILDEE. Thank you very much.

I am going to do two things simultaneously, and I will turn the gavel over to Mr. Sawyer who also has an opening statement.

Thanks a lot. I will go over there and try to save those dollars.

Mr. GOODLING. Not try, do it.

Chairman KILDEE. Okay. I will. I wish you were still there.

[The prepared statememt of Hon. Thomas C. Sawyer follows:]

STATEMENT OF HON. THOMAS C. SAWYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

This subcommittee has held three hearings on H.R. 6, the Elementary and Secondary Education Act of 1993.

We have looked at the way Federal programs support State reform efforts.

We have reviewed assessment issues, on both national and local levels.

We have heard broad proposals to restructure Chapter 1.

Today we will hear from national education associations on issues that they see as being critical to this reauthorization.

I know that it is the hope of everyone on this subcommittee that these hearings will help us to craft a reauthorization bill that will ensure all American children access to high quality education.

I want to thank the witnesses who are here today for your help in this effort. I look forward to hearing your testimony.

Mr. **Sawyer**. [presiding] Mr. Chairman, as you're on your way out the door, I'm going to forego my opening statement and simply say that if we build a better basket here, we're going to count on you to fill it.

Let me turn to our first witness today. Oh, we're going to treat this as a panel. Everybody, if everyone would just join at the table.

Our first panel is made up of Dr. T. Chris Mattocks, who is superintendent of the Idaho Falls School District 91, representing the American Association of School Administrators; Robert F. Chase, vice president of the National Education Association; and Mr.— Boyd, help me.

Mr. **Boehlje**. Boehlje.

Mr. **Sawyer**. Mr. Boehlje, vice president of the National School Boards Association.

Gentlemen, if you would proceed as you will. It's a pleasure to have you here.

STATEMENTS OF T. CHRIS MATTOCKS, SUPERINTENDENT, IDAHO FALLS SCHOOL DISTRICT 91, REPRESENTING AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS; ROBERT F. CHASE, VICE PRESIDENT NATIONAL EDUCATION ASSOCIATION, WASHINGTON, DC; AND BOYD W. BOEHLJE, VICE PRESIDENT, NATIONAL SCHOOL BOARDS ASSOCIATION, PELLA, IOWA

Mr. **Mattocks**. Thank you, Mr. Chairman.

Chairman Sawyer, Mr. Goodling, and members of the committee, I want to say how pleased the American Association of School Administrators is to be able to discuss with you the reauthorization of Chapter 1 of the Elementary and Secondary Education Act. I am chair of the AASA Committee on Federal Policy and Legislation, and I would ask that my comments be entered into the record.

Mr. **Sawyer**. Without objection the full statements of everyone who is on the panel this morning will be part of the record.

Mr. **Mattocks**. Thank you, Mr. Chairman.

Mr. **Sawyer**. You should feel free to summarize as serves your purpose best.

Mr. **Mattocks**. Thank you.

Idaho Falls, for your information, is the fourth largest district in Idaho, with more than 11,000 students in 20 different schools. We have a Chapter 1 program that serves over 600 with about $500,000 Federal dollars. In total, our Federal dollars in our $35 million operating budget comprise about 4 percent. I understand that this subcommittee has heard from the researchers, blue ribbon groups, and other chief school officers, if the schools only had more flexibility, higher standards, more accurate assessments, and the social services that were coordinated, learning would increase.

Mr. Chairman, AASA supports all four of those concepts, but all four together cannot guarantee success for students, because they don't focus on the improvement of teaching and administration, which to me are the best predictors of success.

Let me illustrate. It doesn't help a track athlete to improve his or her time in the hundred meters by telling the student that you expect them to do better in the next race or by suggesting more flexibility in the warm-ups or that the coach is going to buy a new stopwatch so we can more accurately assess how fast they are running.

What would help is a better coaching technique on general conditioning, better coaching on the mechanics of running, lots of practice, and a review of the athlete's performance immediately after each race to focus on the next competition.

An additional key to improvement is a coach on the cutting edge of athletic technique, assessment, and motivation. Two of the historic priorities of Chapter 1 have been equal opportunity and equal access. That's a two-legged stool, and we would recommend that you add a third-leg as you consider the reauthorization of this Act, and that third leg is the focus on improved learning.

To be specific, why not let student assessment drive the improvement plan of the school, the teacher, and the student? What's wrong with the notion that if a student doesn't achieve at the specified level, the teacher is encouraged to change the strategy, and the student is encouraged to try to learn in a different way?

I come before you on behalf of my 18,000 colleagues in AASA with a very simple message, and to understand this message you must be willing to undertake a fundamental shift in the way you think about Chapter 1 and how it's focused and administered. In other words, I want to encourage you to color outside the lines, which is something we are told we are not supposed to do, but we want to encourage you to do that and understand why that is good.

To sustain improved learning, Chapter 1 must be organized in a manner consistent with the principles of high-performing organizations, and those principles are most clearly delineated by Dr. W. Edwards Deming, the acclaimed "father" of the notion of quality. His work is at the leading edge of the most sweeping educational reform in 25 years, because it concentrates on exceeding customer expectations.

He was brought in by the Ford Motor Company a couple of years ago to try to revive their product. The result was the number one selling car in the world, the Taurus. Because of his efforts, they are now being applied to education, and we think we can learn from that.

In addition, he believes in trusting the staff and trusting the workers that are trying to do the job, and, indeed, the trust level is so great that Ford Motor Company had an ad in The Washington Post about 10 days ago that bragged that they spent $20 million a month on staff retraining. That type of retraining we don't do in the secondary schools, that's called in-service, but we should be doing more of it.

The important principles here are that of continual improvement and attention to the design of organizations that can produce top quality results. Nothing is so good it can't be improved upon. Weaknesses should be treated constantly, rather than waiting 2, 3, or 4 years, hoping that some outside force will do the change for you.

Improving teaching administration must receive emphasis like that. We argue for a stronger commitment towards helping education professionals improve their skills and, thereby, student learning. We would encourage the committee to devote a minimum of 5 percent of this reauthorization to be spent on staff and administrator training, because that's approximately what high-performing organizations spend in the private sector.

Chapter 1 should trust people to give their best efforts, as I have pointed out on page 6, and assume that they would do better if they knew how and if the organizational roadblocks were removed. The Federal Government must switch from the mentality of micromanaging Chapter 1 to a basic trust of teachers, administrators, and parents to make the proper decisions on behalf of their students. Until then, progress will be slow.

AASA urges adoption of an exciting new research project to improve learning for special needs kids. It sounds strange, but we really don't know how kids learn. What happens to the kid who is at the crossroads of learning-disabled, a special education program, and Chapter 1, which is the next level above special education? Will students labeled as learning-disabled thrive more in an atmosphere of Chapter 1 than they would in an atmosphere of special education? We don't know, and we should know. Perhaps an organization like OERI can help us out.

In summary, Mr. Chairman, we, in the local school districts, need you to step back from the current legislation and try to put things in a different perspective. You are encouraged to color outside the lines. We badly need you to view teachers and administrators for what they are—trained professionals who have the welfare of each student as their reason for being. We need you to view student improvement and teacher effectiveness in an atmosphere of trust.

We need State departments to serve as counselors, not policemen, because the greatest sin we used to have was violating the rules, and it had little focus on how much students learned. We need to focus on student learning, that third leg of the stool. If you want to receive extra credit on this exam that you are about to undertake, give us the ability to treat the whole child with all the service of whatever agencies we can bring to bear.

Thank you, Mr. Chairman, for my time.

[The prepared statement of T. Chris Mattocks follows:]

DR. T. CHRIS MATTOCKS

Chairman Kildee, Mr. Goodling and members of the subcommittee, I want to say how pleased the American Association of School Administrators (AASA), is to be able to discuss with you the reauthorization of Chapter 1 of the Elementary and Secondary Education Act. I am Chair of the AASA Committee on Federal Policy and Legislation. As Mr. Crapo has indicated in my introduction,, I am superintendent of schools in Idaho Falls, his home school district.

Idaho Falls is the fourth largest school district in Idaho, with over 11,000 students in two high schools, three junior high schools, and 14 elementary schools. Our Chapter 1 grant, serves 637 students with 450,000 federal dollars. Chapter 1 and other federal funds comprise about four percent of the district's $35 million dollar operating budget.

Idaho Falls is also home to about 10,000 federal government employees who work at the Idaho Nuclear Engineering Laboratory and it subcontractors. You will be acting on a proposal dealing with federal impact aid later in this session that will have devastating effects on my school district, if payments in category "b" are eliminated. But, that's another story for another time.

A NEW EMPHASIS ON LEARNING

I come before you today on behalf of my 18,000 colleagues in AASA with a very simple message. The challenge to Congress in this reauthorization of Chapter 1 is to add a new emphasis on learning to the current focus on equal opportunity and equal access. The past emphasis on equal opportunity and equal access are still important, but a new emphasis must be placed on learning.

Until the Hawkins Stafford amendments made it clear that learning was important, compliance with the operating rules regarding equity and access were the only bases of judgement. Clearly, Congress wanted Chapter 1 students to learn, but a school district's day of judgement always came when we were inspected for compliance with the regulations regarding access and equity. The greatest sin was to have violated a regulation, no matter how much students learned.

The emphasis on rules caused conflict among teachers, principals and local administrators regarding Chapter 1, because any idea for enhancing student performance was always judged first for compliance with regulations, not for learning growth.

In fact, there still is not a widely understood measure of student learning by state or school district. Results are reported in normal curve equivalents, NCEs, which are not understood or used anywhere else in the entire school business. A program that has been in existence for 30 years without a clear, understandable measure of student learning, is focused on something other than learning.

But, that is the past and we are here to discuss the future. The challenge is to create a program that will deliver a quality education to every child.

STANDARDS, ASSESSMENT, FLEXIBILITY AND SERVICE COLLABORATION

In earlier hearings researchers, blue ribbon groups and state superintendents (chief state school officers) have told you that if schools had more flexibility, higher expectations (standards), more accurate assessments, and social services were more coordinated learning would increase.

AASA supports establishing standards, improving assessment, providing flexibility and coordination among social services. But, Mr. Chairman, none of these four actions guarantee success because they do not focus on the improvement of teaching and administration, and they beg the question by what method? Enhanced student learning is created by focusing on the learning environment, improving professional practices, and developing an organization designed to get the best results. For example, it doesn't help a runner improve his or her time in the 100 meters by telling them you expect better performance, or by buying a new stop watch, or by suggesting that the runner has the flexibility when to run hardest. What might help is better coaching in work outs, better coaching on running techniques and reviewing each race immediately with other runners and coaches.

CREATING QUALITY PROGRAMS FOR EVERY STUDENT

First, Chapter 1 must be organized in a manner consistent with the principles of high performing organizations. Those principles have been most clearly delineated by Dr. W. Edwards Deming, the acclaimed father of the notion of "quality". Fortuitously, a President who knows the principles of quality organizations has been elected and is promising to bring that thinking to Washington.

Better results come from improvements in the process of teaching and learning, in accordance with the principles of high performance.

TRUST AS THE CENTRAL OPERATING PRINCIPLE

Program improvement, as built into the Hawkins/Stafford Amendments of 1988, was based on a lack of trust and no theory about creating schools that could deliver excellence. And, predictably the results have been disappointing.

1. AASA recommends that trust be embodied in greater flexibility for decisionmaking at the school site. For example, decisions about integration of various other programs funded under ESEA with Chapter 1 should be made by teachers, administrators and parents at the school site.

2. AASA recommends that the SEA and the local school board promote the concept of trust by clearly establishing the authority to integrate programs. But neither the SEA nor the local school board can direct school sites to integrate programs or tell them which programs can be integrated--those decisions are to be made by those who do the work. Deming and other leaders in what business calls total quality management agree that, absent trust, improvement will be slow and very expensive.

CONTINUAL IMPROVEMENT AS THE SECOND OPERATING PRINCIPLE

1. AASA recommends that the idea of continual improvement be made a principle part of every state and local application. The idea behind continual improvement is that nothing is so good that it can't get better. The emphasis should be on fixing the problem not the blame. Each SEA and LEA must lay out a plan to continually improve its internal processes with a goal of system wide improvement. The SEA must shift from monitoring compliance to finding state barriers to improvement and searching for ways to meet local requirements for improvement, helping not telling.

Continual improvement would have Chapter 1 trust people to give best efforts, and assume that they would do better if they knew how and if organizational impediments were removed.

Therefore, continual improvement requires constant training, good information about the critical processes of teaching and learning and regular review of the organization of the work. Or, in Washington speak, training, good assessment and evaluation data, and empowering people who do the work to make decisions about how the work is done. Continual improvement also requires a consistent application of learning and organizational theory, not the mix and match seat of the pants leadership of the past. Judgement will then be based on learning gains, and corrections made to professional practices and operating theories.

2. AASA recommends that 5% of each LEAs award be set aside for

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continual improvement. We can find no data or research on percent of budget that produces the greatest gains, so we recommend that experience from the private sector be the guide, and five percent of operating costs is about what high performing organizations in the private sector spend on training.

We in education, have yet to learn from high performing industries, because we spend so little on upgrading performance. State departments should be placed in the role of support and consultation rather than enforcers of some rules that do not fit any schools specific circumstances. Regulations are still needed but program operation must be appropriate to the situation. We are fortunate in Idaho to have a state department that is constantly striving to help school districts do a better job. Unfortunately, my colleagues tell me that is not true everywhere and some SEAs read Chapter 1 to mean that the state role is policing rather than coaching.

- Develop a continual improvement plan that puts teachers in the position of planning staff development with administrators based on results of student assessment and teacher reflections of their confidence to use various instructional methods called for by different interventions.

LEARNING EXPECTATIONS

1. AASA recommends that each LEA develop and regularly update, through public discussions, expectations for student learning which

are to be shared with parents, teachers and students. For students to reach their potential they must know clearly what is expected of them. Many school districts and now a few states have begun the process of clearly defining expectations for student learning, so this is a process well under way everywhere. Its not too much to ask that parents and students should know what students are expected to learn.

If national standards such as the math standards are developed and certified by a national standards body, then state and local expectations can be easily keyed to those standards. Congress must guard against narrowing and politicizing the curriculum by authorizing an approved list of facts to be memorized. This will harm learners and the national economy. On the other hand several hundred school districts have already defined learning expectations through public discussion, resulting in improved learning and public understanding.

STUDENT ASSESSMENT

A second aspect of continual improvement is using data to make decisions about improving the process. This leads to the topic of assessment. Do we test to discover what students know and do not know, or to satisfy state and federal policy makers? We think the first use of assessment must be to improve instruction, rather than the current emphasis on information for policy makers.

1. AASA recommends that each LEA develop an assessment system appropriate to its situation. There are plenty of ways a local school district can measure student achievement, and the list is growing. School districts should be allowed to choose from a list of suitable alternatives.

2. AASA recommends that SEAs, regional labs and the U.S. Department of Education be given the responsibility to inform LEAs about student assessments. Informing school districts about various assessments is a role for knowledgeable persons in SEAs, colleges, education service agencies and the private sector. Funds from the local continual improvement plans, the 1 percent state share, and resources available through the technical assistance centers can all be used to purchase information and training for LEAs. The state should be expected to use some of its 1 percent to research student assessment and the federal government should make such research a priority in OERI and the Chapter 1 office.

3. AASA recommends that student assessment drive the continual improvement activities for both teachers and students. If a student doesn't achieve at an expected level, teachers should be encouraged to alter strategies, and students should be encouraged to keep information to track and maybe change their study or work habits. Information about learning uses immediately can inform students and teachers about instructional methods, the effectiveness of materials or equipment such as computers.

4. AASA recommends that parents be made full partners in the use of assessment data. It is important that teachers, parents and students play a key role in examining and reviewing the results of the processes of teaching and learning that affect them in their school site. The old question about how to involve parents in Chapter 1 is now easy to answer. Involve them with teachers and administrators in using assessment and other indicator data to understand the results and collectively seek improvements.

Most school districts are not equipped to train staff regarding student assessment and the use of assessment data to plan instruction and staff development. Such training must be a priority for the US Department of Education through contractors that can help---especially those mostly small districts or districts with small Chapter 1 grants.

HELPING SCHOOLS IMPROVE

1. AASA recommends that Chapter 1 provide on demand support at the school site. On demand staff development based on local assessment data and staff need is not available except in some large districts. Provision of support through Education Service Agencies, colleges and private vendors could be brought to bear by tying title 5 of the Higher Education Act directly to ESEA and making services to LEAs under ESEA a priority.

2. AASA recommends that the training funds be used under Part A of Title 5 of the Higher Education Act. First however, every member

of this committee must make funding part A of Title 5 a must on their list of requests to the Appropriations subcommittee on Labor, Health and Human Services and Education. The federal role in continual improvement must be increased, if professional practices are to be improved. And the combined effect of 5% of Chapter 1 ($350 million for FY' 93), $300 million in new funds for Title 5 and access to funds under the $350 million dollar Eisenhower program would energize staff development and over a period of five years make improved practices a reality.

3. We recommend that a third alternative instructional setting be allowed for those schools with Chapter 1 eligible children, but not in sufficient numbers to meet the schoolwide project definition. This alternative would build a Chapter 1 classroom within the school, with at least 75 percent of the children in that classroom eligible for Chapter 1 participation, and would require a student teacher ratio of 15:1 or lower.

4. Finally, AASA recommends that the role of the SEA in Chapter 1 must be redefined to focus on supporting local efforts toward continual improvement. Some states are heading in this direction already. Congress should make that direction explicit.

To support local continual improvement efforts, AASA recommends that:

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A. Title 5 of HEA be altered to make training for Chapter 1 and other ESEA programs a priority;

B. The Eisenhower Math and Science authorization be modified to encourage combination with Chapter 1; and

C. Define the SEA role as support for local continual improvement.

COLLABORATION AMONG SOCIAL SERVICES AND EDUCATION

Last, but certainly not least, the Congress should begin bringing all available resources to bear on the needs of children. Combining health, social services, juvenile justice and correctional programs with other family services is an important change under way in many communities. Combining services controlled by different political jurisdictions and levels of government, employing different professionals is tricky and apparently very idiosyncratic.

With these complex relationships in mind, we recommend that this Committee authorize a demonstration program to examine the intersection of "Learning Disabled" students under IDEA (PL 94-142) and Chapter 1. Such a demonstration would be based on the assumption that many children now labelled "Learning Disabled" are the same students who often qualify for Chapter 1 assistance. The purpose of the demonstration would be to determine whether or not their are Chapter 1 interventions that can help learning disabled children more.

All of us who serve children and their families need support to bring this off. Based on discussions with AASA members the problems do not seem statutory. Rather, they are political and budget turf and competition and different professional norms and practices. The efforts of the new administration to foster talks among federal agencies and the same energy among many governors and local leaders makes this a doable policy goal over the next five years.

Mr. **Sawyer.** Thank you very much for your testimony this morning.

Mr. Chase?

Mr. **Chase.** Thank you very much.

Chairman Sawyer, Mr. Goodling, Mr. Petri, members of the subcommittee, my name is Bob Chase and I am vice president of the National Education Association, and I do appreciate this opportunity to share our views on the reauthorization of the Elementary and Secondary Education Act.

For the past quarter century, Federal elementary and secondary education programs have made a profound impact on the lives of students served in these programs. They are provided essential resources to public schools, and they have enabled schools and education employees to address the unique needs of students disadvantaged by economic conditions, native language, or other obstacles to academic success.

The reauthorization of ESEA comes at a critical time. The public's commitment to improving public elementary and secondary education remains high. The stakes for protecting equity and promoting excellence become greater every year. In the year 2000, the deadline for meeting the national education goals adopted by the Nation's governors and endorsed by the President grows closer each year.

NEA believes four overarching issues should drive consideration of the programs contained in ESEA. First, categorical programs designed to meet specific needs must have resources adequate to serve all students eligible and in need of assistance. Federal funds must be provided directly to local school districts for instructional purposes, with a minimum of administrative burdens.

Educators selected by their representative bargaining agents must have a voice in decisionmaking. Giving educators a say in decisionmaking at the local level helps assure the Federal funds are used for activities that improve the quality of education.

New initiatives must be added to meet the educational needs of America's public schools. Programs authorized in ESEA continue to play a vital role, but they do not go far enough in addressing the present needs of America's schools or the future needs of the U.S. economy.

NEA supports the enactment of a major new general aid program, a new initiative to meet the unique needs of rural and urban schools and a new initiative to enhance the safety of America's schools, safety from the threat of violence and from environmental hazards.

The written statement that you have received contains additional information on the initiatives we believe students and schools need to achieve the new educational goals, but I would like to take this time to emphasize one essential element of effective educational programs, and that element is consistency.

Frequently, policymakers have a tendency to move from one crisis to the next before fully solving the last problem. Nowhere is this inclination more acutely felt than in the area of education. From Sputnik to "A Nation at Risk," education policy has been made in response to a perceived crisis. Sadly, even when the perception of the crisis has abated, the problem continues.

The Federal Government must maintain a consistent effort to address challenges in education, both in continuity of programs and in continuity of funding levels. The quality of Federal education programs has suffered over the past decade from a scarcity of resources. Our national education policy has been comparable to emergency room treatment, and yet students and schools need a preventive health maintenance approach.

Frequently, the schools, school programs, and school employees are the most consistent force in a student's life. As educators, the most profound contribution we can make is to be there for them, to work with them until they gain the skills and the knowledge they need to be successful. As policymakers, that continuity of commitment is the most profound contribution you can make.

We urge this subcommittee and this Congress to use this opportunity to assure that ESEA programs get the resources they need to be effective and that any changes address real, not political needs.

Moreover, we urge you to keep the original mission of these programs foremost in your minds, and that mission is to promote economic opportunity for disadvantaged students by helping assure educational opportunity to all.

Thank you very much.

[The prepared statement of Robert F. Chase follows:]

Mr. Chairman and Members of the Subcommittee:

I am Robert Chase, Vice President of the National Education Association which represents 2.1 million education employees in the nation's public elementary, secondary, vocational, and postsecondary schools. I appreciate this opportunity to share our views on the reauthorization of the Hawkins-Stafford Elementary and Secondary Education Improvement Amendments, P.L. 100-297 (ESEA).

The Elementary and Secondary Education Act is the cornerstone of the nation's K-12 education policy. The Act contains the largest and most significant programs ever designed by the federal government to address the twin issues of equity and excellence in education. For the past quarter century, these programs have made a profound impact on the lives of students served in the programs, and they have provided essential resources to public schools that enable them to address the unique needs of students disadvantaged by economic condition, native language, or other obstacles to academic success.

The reauthorization of ESEA comes at a critical time. The public's commitment to improving public elementary and secondary education remains high. The stakes for protecting equity and promoting excellence become greater each year. And the year 2000, the deadline for meeting the National Education Goals adopted by the nation's governors and endorsed by the President, grows closer each year.

Four overarching issues should drive consideration of the programs contained in ESEA:

Federal elementary and secondary education programs must have the resources necessary to achieve their objectives. With the Education Consolidation and Improvement Act of 1981, the scope of federal programs became relatively narrow. Programs that remain, such as Chapter 1, Bilingual Education, and Impact Aid, must have resources adequate to serve all students eligible and in need of assistance.

Wherever possible, resources must be moved to the local level. Learning takes place in classrooms, not in state departments of education or the U.S. Department of Education. Federal funds must be provided directly to local school districts for instructional purposes, with a minimum of administrative burdens that hamper the ability of teachers to teach and children to learn or that necessitate the creation of administrative positions to address federal regulations.

Educators selected by their representative bargaining agents must have a voice in decision-making. The reauthorization of ESEA should, where appropriate, require that teachers have a say in the development and delivery of programs to assure federal funds are used for activities that improve the quality of instruction.

New initiatives must be added to meet the educational needs of America's public schools. Most of the programs in ESEA were developed in the mid-1960s, and they continue to play a vital role. But they do not go far enough in addressing the present needs of America's schools or the future needs of the U.S. economy. NEA supports the enactment of a major new general aid program, a new initiative to meet the unique needs of rural and urban schools, and a new initiative to assure that schools are free from violence and from environmental hazards.

Before addressing specific programs, I would like to speak to some general concerns about federal efforts to improve education.

Consistency of Mission

Frequently, policymakers have a tendency to move from one crisis to the next before fully solving the last problem. Nowhere is this inclination more acutely felt than in the area of education. From Sputnik and the National Defense Education Act to the War on Poverty to the publication of "A Nation At Risk," education policy has been made in response to a perceived crisis. Sadly, even when the perception of the crisis has abated, the problems continue. The federal government must maintain a consistent effort to address challenges in education.

For example, laboratory equipment, purchased with funds made available by the NDEA, is still in use in some schools today -- a testament not so much to its durability as to the fact that little has been done in the intervening years to address inadequacies in math and science education in this country. The release of "A Nation At Risk" did make way for efforts by states to provide additional resources for public schools. But the results of those efforts are uneven at best. A year after "A Nation At Risk" was released, states enacted budgets that were 6.3 percent below the previous year, after accounting for inflation -- the sharpest single year decline in two decades. New state money went primary to make up for past neglect (e.g., salary increases for education employees in the 1980s merely restored them to the purchasing power of the early 1970s) and to compensate for federal education budget cuts.

More recently, the establishment of National Education Goals renewed attention on education. But little substantive action has yet been made. To a large degree, the Bush Administration squandered its opportunity to bring about change and improvement by using America 2000 as a means of lobbying to divert public money to private and parochial schools.

We caution this Subcommittee and this Congress to use this opportunity -- the reauthorization of ESEA -- wisely. Congress must assure that programs to meet special needs continue until such needs are non-existent, that ESEA programs get the resources they need to be effective, and that changes address real, not political, needs.

The reauthorization must be consistent with the original mission set a quarter century ago: to promote economic opportunity for disadvantaged students by helping assure educational opportunity to all.

Continuity of Services

Federal education programs suffered tremendously from the combination of uncertainty about the mission of public schools and the economic constraints. Even

Chapter 1 compensatory education for disadvantaged students -- which has the most impressive record of helping students make significant gains in academic achievement -- was cut by one-fifth between 1980 and 1986. By 1986, only one-third of the eligible student population had access to compensatory education services. While Chapter 1 has recovered somewhat, students and schools continue to suffer from sharp decline of federal resources for effective programs. In FY92, funding for bilingual education was almost 40 percent below the FY80 level. Over the same period, Impact Aid lost 45 percent and Chapter 2 block grants lost 66 percent of the resources provided a decade before.

The quality of federal education programs has suffered from a scarcity of resources -- which frequently leads to the next crisis. Because of the recurring crisis in public education, the national education policy has relied on emergency room treatments, when students and schools need a preventive, health maintenance approach.

Cuts in programs such as Chapter 1 close off opportunities for affected students, opportunities that may never be regained. Moreover, they do more than put a school district a year behind. Significant cuts in resources frequently necessitate cuts in staff, which is a loss of experience, commitment, and continuity that cannot be restored if the funds become available the following year.

We urge this Subcommittee to authorize funding levels -- and advocate for appropriations levels -- that will assure consistency of programs from year to year.

Standards and Goals

U. S. Secretary of Education Richard Riley recently announced that the Department of Education is developing a proposal for a national council that would set rigorous content standards defining what students should know and be able to do -- consistent with the high standards outlined in the National Education Goals. The panel would establish a process for voluntary approval of standards set by state education authorities.

NEA supports the concept of a national council that would review and certify voluntary high quality standards set by state and/or local education agencies, rather than a process that would set forth a single national or federal set of standards. Voluntary participation would give state and local officials the flexibility they need to maintain the autonomy and diversity of the American public school system. At the same time, a national yardstick for measuring state and local standards would be a strong impetus to assure that academic standards are set high.

Assessments used to measure progress against the goals must be considered in their proper context. Student outcome assessments must be matched with high program standards so that schools can identify deficiencies in resources -- time, materials, and personnel -- and take steps to address them. Where states and localities need help in addressing those deficiencies, the federal government should provide funding and technical assistance.

Chapter 1

The Chapter 1 compensatory education program for disadvantaged students is one of the most important federal contributions to quality education in the United States. Students with access to Chapter 1 services have performed demonstrably better on standardized tests than comparable students who have not been able to participate in the program. The chief shortcoming of the program, historically, has been limited resources. Without sufficient funds to pay for teachers, facilities, and materials, far too many students have been unable to get the help with basic skills they need to be successful.

Extending access for all students to quality educational opportunity is a vital and, as yet, unachieved national goal, a goal that precedes and transcends the National Education Goals.

Our experience in several reauthorizations of ESEA since 1965 has taught that, without adequate resources and strong administration, the best of legislative changes are merely an empty promise. Despite two decades of proven success, Chapter 1 compensatory education programs meet the needs of only some 65 percent of the students eligible and in need of assistance.

NEA supports provisions that would promote cooperation and coordination of Chapter 1 with other federal education programs and with state and local efforts. We strongly oppose further consolidation of federal education programs that would diminish the resources to school districts and quality of services to students.

Over the past 12 years, Congress has had to deal with Administration-backed proposals to convert Chapter 1 into a tuition voucher program that would provide assistance to private and parochial schools. Such schemes never had the support of the Congress, the schools, nor the American people. We hope such distractions will not consume much time in consideration of the reauthorization. The federal government's responsibility in education, first and last, is to promote equity and excellence for students served in public schools. Congress must reject any proposal that would take resources away from public schools, violate the constitutional separation of church and state, or diminish the effectiveness of public school programs in serving disadvantaged students.

Bilingual Education

NEA supports the essential federal role in assuring students with limited proficiency in English have access to culturally sensitive bilingual programs. Such programs should both assure that students have proficiency in English in order to excel in academic programs, and should help students maintain proficiency in their native language. Multilingual competence will increasingly be an essential workplace skill to assure Americans can compete in a global marketplace.

The reauthorization should take steps to assure all students in need of language-development assistance are served. Since Fiscal Year 1980, funding for federal

Bilingual Education programs have been cut 37 percent after accounting for inflation. At present only about one in six students with limited proficiency in English are served in federally funded bilingual education programs. The 1990 Census indicates more than 6.3 million children between the ages of 5-17 do not speak English at home.

Among areas of focus during this reauthorization should be addressing the critical shortage of qualified bilingual education teachers. Nationwide, schools need an additional 175,000 bilingual teachers to meet the current demand. NEA supports additional federal resources for recruitment, preparation, and inservice education of bilingual education teachers.

Impact Aid

Impact Aid is one of the earliest federal education programs and a key element of the ability of schools affected by federal activities to provide quality educational opportunity. For several years, Congress has been engaged in a debate over the various categories of Impact Aid funding. NEA supports amendments to Impact Aid that would establish a weighted formula to address the variable economic impact of federal activities on affected schools. In addition, we strongly support changes in Impact Aid to forward fund the program. Since Impact Aid funds support general operating expenses, it is all the more essential that school districts know what their appropriations will be to make budget decisions. Finally, Impact Aid is woefully underfunded. By FY92, resources to schools eligible for Impact Aid were cut by 45 percent compared to FY80, after accounting for inflation.

General Aid

The most successful schools in the U.S. share one characteristic. It is not merely the leadership of a principal, the involvement of teachers in decision-making, or the best equipment. The most successful schools in the nation -- public and private -- have the resources necessary to maintain low teacher-student ratio, attract and retain qualified staff at every level, and provide adequate facilities, equipment, and time to teach.

Education reform efforts over the past decade should teach us some important lessons. First, education reform programs that are limited in scope and effect will produce limited results. American public schools need substantial improvements to meet the high standards of the national goals. Second, setting standards for student outcomes without providing resources to maintain high standards for program quality will produce disappointing results. Third, while one may argue over what it cost to provide the current level of education, clearly transforming American schools to meet the needs of the future is going to cost more.

As long as the responsibility for the quality of our schools is left up to the commitment and abilities of state and local governments, we can only expect uneven results. If we truly want national improvement, if we want schools in diverse economic circumstances to meet national education goals, the federal government must commit significant resources to meet those goals.

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If we want better teachers, we will have to pay teachers better. Efforts to strengthen teacher standards through the National Council for the Accreditation of Teacher Education and the National Board for Professional Teaching Standards will have little effect unless the salaries and benefits of instructional professionals -- and of all school personnel -- meet or exceed comparable compensation for jobs that require similar training and levels of responsibility.

Congress should authorize a program of significant general aid to schools -- funds that can be used for those aspects of the educational program that have a demonstrable effect on the quality of education, e.g., lowering class size, providing significant teacher education, raising the compensation for professional educators to attract and retain the best individuals, and providing adequate and appropriate materials and equipment for student use. Such funds should be provided directly to school districts, and classroom teachers should have an effective voice in the allocation of those resources.

Infrastructure and Technology

A number of recent reports point out the serious deficiencies in public schools' physical plants. The Education Writers of America's report, "Wolves at the Schoolhouse Door," estimated the cost of necessary construction and renovation in public schools nationwide at some $100 billion. In 1992, the American Association of School Administrators (AASA) found that one out of five public school students attends classes in substandard buildings.

Old, worn-out buildings are more than just depressing. They are expensive to operate and a threat to the health of students and staff. Many older schools have hazardous asbestos, lead, and radon. The federal government has taken modest steps over the past several years to address some of these environmental hazards, but much more must be done to make America's public school buildings safe and adequate. Capital outlays and interest on school debt has risen sharply, from less than 7 percent of total K-12 expenditures in 1989-90 to almost 9 percent of total expenditures in 1991-92.

Support is growing for technological improvements in public schools that will enhance instructional excellence and prepare students for the workplace of the future. But unless schools have the resources for construction and renovation, many will not have an electrical system adequate to house computers and other instructional technology.

NEA believes a federal investment in school facilities is cost-efficient in a number of ways. First, hazard-free schools promote human health and lessen the need for costly remediation. Second, it is only prudent to assure that schools have the capacity -- in terms of space, electrical systems, etc. -- to use effectively instructional technology purchased with federal dollars. Third, adequate facilities enhance school pride, signal to students they are valued, and prevent disruptions caused by heating and plumbing system breakdowns. Without federal involvement, many of the worst schools will only get worse.

Rural and Urban Schools

NEA supports a new federal initiative to assist rural and urban schools with their unique needs, including endemic shortages of qualified teachers, high numbers of children living in poverty, and limited resources for adequate facilities. Funds provided under this title would be used to help rural and urban schools meet the National Education Goals and prepare the nation's young for the challenges of the future economy.

Public elementary and secondary schools play a pivotal role in American rural communities. To a large extent, the school is what brings the community together -- given the relative isolation of families working in agriculture and ranching. American rural communities face new challenges, declining population, the need to diversify its economy, and the challenge of offering a rigorous, diverse academic program with limited resources. NEA supports a program of federal assistance to link public schools with other schools, including postsecondary institutions, to expand involvement in experiential learning, and to learn effective use of technological innovations to improve farming and ranching -- from the standpoint of efficiency and environmental responsibility.

Public schools in urban settings can and should play a similar function in bringing the community together. Providing resources to school districts for recreation, before- and after-school care, adult education, and other activities can help restore schools to a central place in the community.

Moreover, schools must play a leadership role in coordinating comprehensive services to disadvantaged children. Dr. James Comer's research demonstrates the importance of meeting comprehensive student needs to achieve academic goals. Public schools in urban communities can play a pivotal role in identifying needs, coordinating services, and providing a focal point for community development efforts.

Health and Safety in Schools

NEA supports a new federal initiative to assure the health and safety of children in public schools by addressing both environmental hazards and the threat of crime and violence. The measure would establish requirements for testing and assist with abatement of lead hazards, radon, and asbestos. A comprehensive program to address environmental hazards in public schools would assure coordination of programs and projects, it would assure that resources are provided to schools with the most serious problems and fewest resources in a consistent, equitable manner, and it would help reassure parents about the safety of their children in public schools.

At the same time, we support a new program to provide grants to local education agencies to reduce school crime and violence. These provisions would clearly and directly advance National Education Goal number six, "Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning."

We recommend a five-year authorization of $100 million each year, beginning in 1994, to be used for education and training programs for students and staff for the prevention of crime and violence, for counseling for victims and witnesses, for the development of dispute resolution programs, for the purpose of crime prevention equipment, including metal detectors, and to hire school security staff.

Such a program is a modest investment in the long-term security of both schools and neighborhoods. Funding for the program would be about one-half of what schools now pay to deal with the effects of school crime and vandalism. But the savings in such an effort cannot be counted in dollars alone. At present, some 100,000 students bring guns to school every day, more than 2,000 students are physically attacked on school grounds each hour, some 900 teachers are threatened, and nearly 40 actually assaulted on school property each hour, and some 40 children are killed or injured by gunshot wounds every day.

We urge you to support a Violence-Free Schools Act as a part of the reauthorization of ESEA.

In closing, NEA reiterates its strong support for the National Education Goals established by the nation's governors and endorsed by the President. We believe that the Committee must keep these National Education Goals in mind in evaluating the various programs within ESEA. The Goals are helpful in emphasizing that education is a continuum, from developmental education to lifelong learning. They help establish a framework assuring education efforts are coordinated and integrated.

At the same time, it would be inappropriate to use the Goals as a Procrustean bed on to which every categorical program should be made to fit. Educational equity has social and economic benefits that go far beyond simply raising the high school completion rate or other narrow aspects of the Goals. Categorical programs that meet unique, individual student needs should be continued to assure that all students have access to programs which enhance their ability to meet high academic standards and achieve the other aspects of the Goals.

Thank you.

Mr. **Sawyer**. Thank you, Mr. Chase.

Just for the record, let me note that in the course of the testimony we were joined by a member of the subcommittee, Mr. Petri.

Thank you, Mr. Chase for your testimony—and turn to Mr. Boehlje.

Mr. **Boehlje**. Thank you.

Mr. Chairman and members of the committee, I am Boyd Boehlje, and I am vice president of the National School Boards Association. To give you a little perspective, I am a school board member and have been for 20 years in a small, rural Iowa district. I am also the school board member who sits on the National Assessment Governing Board.

NSBA, as you are, I'm sure, well aware, represents 97,000 local school board members across the country who govern the Nation's public schools, and we are pleased to have this opportunity to testify on H.R. 6, the reauthorization of the landmark Elementary and Secondary Education Act of 1965.

For over a quarter of a century, this Act has expanded educational opportunities and improved the quality of life for millions of disadvantaged children, but now as Federal education programs continue, they must provide excellence as well as equity in education to enable all our students to meet the economic challenges of the 21st century. We believe this committee can successfully reshape ESEA to meet these challenges by building on the current programs and adding several new ones.

Our recommendations primarily concern revisions to Chapter 1, Chapter 2, and Title VII. We also want to urge your support for H.R. 520, the Link-up for Learning Act, and to advance creation of a new Immigrant Education Assistance Act. Several principles and concerns underlie our recommendations.

First, the challenge of global competition and the consensus on achieving ambitious national education goals make increased Federal investment in education a top national priority. A current investment of only 5 percent of the total cost of K-12 education will not meet the challenges of the 21st century. Our recommendations call for at least $4 billion dollars in new resources for current and new programs.

Second, Federal education law should respect and enhance local governance of education. We support efforts to broaden community participation in designing federally supported programs, but final decisionmaking should reside with the local school board.

Third, we support increased flexibility in the local administration of Federal programs, including local authority to consolidate Federal grant funding.

Fourth, we are concerned about excessive Federal funding of State education agencies. State matching funds should be required when Federal programs expand State level activities.

Finally, NSBA supports the development of national standards for assessment, with local school board member participation at all levels, including the National Goals Panel.

Regarding current ESEA programs, we have identified several areas for improvements. Now that President Clinton has made clear his commitment to fully fund the Head Start Program, the time is right to fully articulate Head Start and Chapter 1.

We recommend expanding Chapter 1 early childhood education and transition services from preschool to grade 3 to maintain the benefits of Head Start and other early childhood intervention programs. Funding would come from reserving 50 percent of new appropriations up to $1.5 billion for Chapter 1 early childhood education.

We also recommend expansion of the schoolwide project option to more schools by lowering the poverty threshold from 75 percent to 50 percent. The schoolwide option encourages site-based management, integration of programs, and fundamental instruction reform.

To promote greater participation in schoolwide projects, we recommend a strong oversight role for local school boards and a separate authorization of $500 million for schoolwide project incentive grants. We disagree with recent proposals for targeting that eliminate Chapter 1 services in schools with relatively lower poverty levels.

A hallmark of Chapter 1 since its inception has been providing services to educationally disadvantaged students, not just the economically disadvantaged student. The solution is more Federal investment in high property schools through targeted appropriations like schoolwide project incentive grants.

Chapter 1 assessment needs improvement. We support sampling for national assessments and multiple measures for State and local assessment. Use of norm-referenced tests should be a local option.

We believe the Chapter 2 Program should be the primary vehicle for assisting local school districts with school reform initiatives. We recommend including the national education goals and systemic reform in the program purposes and increasing reauthorization by $1 billion, with the local share growing to 85 percent. Also, States should use 50 percent of their allocation for district grants to local school districts to carry out systemwide school reform.

The Bilingual Education Program serves barely one-eighth of the 2.3 million children with limited English proficiency. Title VII(a) should be increased to at least $500 million and distributed by formula rather than the inefficient discretionary grant process. NSBA also supports the efforts of Impact Aid districts to reach consensus on a new program structure that is simpler and more sensitive to local financial needs.

We also urge the committee to authorize several new programs as part of the ESEA. The Link-up for Learning Act, H.R. 520, cosponsored by several members of this committee, will create a program to coordinate education, health, and social services to improve the achievement of at-risk students.

It also calls on the Federal Government to adopt a national youth policy and break down barriers to more effectively use State, Federal, and local funds.

We also call on Congress to respond to the tremendous influx of new immigrants, overwhelming the local resources of many of our school districts in many communities across this country.

We urge you to enact a new Immigrant Education Assistance Act to provide the comprehensive services and facilities that are needed by recent immigrant children and their families.

In summary, ESEA has made great contribution to the lives of disadvantaged students over the last quarter century. It must change and expand to help them meet the economic challenges of the new century, and we look forward to working with the committee on this important task.

Thank you.

[The prepared statement of Boyd W. Boehlje follows:]

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TESTIMONY

on behalf of the

THE NATIONAL SCHOOL BOARDS ASSOCIATION

ON

H.R. 6
REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

before the

House Subcommittee on
Elementary, Secondary, and Vocational Education
U. S. House of Representatives
2175 Rayburn House Office Building
Washington, D.C.

March 4, 1993

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TABLE OF CONTENTS

I. INTRODUCTION 1

II. SIGNIFICANCE OF REAUTHORIZATION 1

III. UNDERLYING PRINCIPLES 2

IV. SPECIFIC PROGRAM RECOMMENDATIONS 5

V. NEW PROGRAM RECOMMENDATIONS 12

VI. CONCLUSION 14

I. INTRODUCTION

I am Boyd W. Boehlje, Vice President of the National School Boards Association and a member of the Pella, Iowa Board of Education. I am pleased to have this opportunity to testify before the House Subcommittee on Elementary, Secondary, and Vocational Education on behalf of the 97,000 local school board members across the country who set policy governing the education of the nation's public school children. As locally elected and appointed government officials, school board members are uniquely positioned to judge federal legislative programs from the standpoint of public education, without consideration to their personal or professional interests.

II. SIGNIFICANCE OF REAUTHORIZATION

NSBA greatly appreciates the opportunity to provide testimony on the reauthorization of the landmark Elementary and Secondary Education Act of 1965 (ESEA). For over a quarter of a century, this legislation has expanded educational opportunities and improved the quality of life for millions of disadvantaged children. While its accomplishments have been great, the need for a strong federal role in education is more critical than ever. Now the nation not only confronts a need to provide equity in education but it also must provide excellence in education for all students. The new imperatives of a global economy and fierce international economic competition make a high quality education for all our citizens essential for the nation's future well being and prosperity.

NSBA has developed recommendations for significant changes in ESEA that build upon the successes of three of its major programs: Chapter 1, Chapter 2, and Title VII. We also are submitting proposals for new authorizations that we believe usefully expand upon the federal role in education in ways that attack critical problems confronting our public school children and respond to the nation's need to meet world-class standards for global competition. These include our support for H.R. 520, the Link-up for Learning Act, which would coordinate educational support services for at-risk youth, and our advocacy for a new Immigrant Education Assistance Act. This testimony summarizes the detailed legislative proposals submitted at the committee's request on December 1, 1992.

III. UNDERLYING PRINCIPLES

NSBA's recommendations are based on several underlying principles and concerns that reflect our assessment of the state of American education and the appropriate federal response.

A. Increase Federal Investment

The time has come for the federal government to become a full partner with states and localities in meeting the needs of our children and youth for equity and excellence in education. The challenge of global economic competition and the unprecedented consensus on achieving ambitious National Education Goals make increased federal investment in education a national priority. The current investment of only about five percent of the total cost of K-12 education -- barely one percent of the federal budget -- will not meet the challenges of the 21st century. Our recommendations propose over $3 billion to expand Chapter 1, Chapter 2, and bilingual education. We also propose that

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the Committee give serious consideration to authorizing new categorical programs in the following priority areas: coordinated educational support services for at-risk youth; immigrant education; urban education; rural education; education technology; school-to-work transition; system-wide school improvement; and school construction and job creation.

B. Strengthen Local Governance of Education

NSBA supports efforts to broaden community participation in designing federal programs but strongly believes that final decision-making must reside with the local school board. Federal education law should respect and enhance local and state governance of education. If Congress believes local school boards require more community involvement or more information concerning current trends in education, then the federal government should support efforts to strengthen them.

C. Increase Local Flexibility

Increased flexibility in the administration and funding of local projects, such as the expansion of Chapter 1 school-wide projects, would greatly improve the effectiveness of federal education programs. Although not specifically addressed in our recommendations, NSBA also supports further efforts to consolidate federal grant funding at the LEA level provided that children in need are being served as intended under the basic categorical programs. NSBA vigorously opposes any consolidation proposal to: eliminate the original line item authorizations for major categorical programs at the federal level; transfer to the state level the authority to consolidate locally operated federal programs; or condition locally determined consolidation to new bureaucratic procedures or regulations apart form universal accounting procedures.

D. Limit Federal Financing of State Bureaucracy

NSBA is concerned that the federal government has increasingly become the primary underwriter of state education agencies, paying for activities that state governments do not value sufficiently to fund. State matching funds should be required if federal programs expand state level activities.

E. Develop National Standards for Assessment

NSBA supports the development of national standards for assessment of educational performance. We strongly believe that such standards should be developed by means of a broad consultative process including local education policy makers as well as educational experts. The standards should be adequately field-tested and piloted before being adopted nationally. Any method for assessment should also be designed to identify needed resources for improvement rather than point up areas of deficiencies among children, schools, or communities.

IV. SPECIFIC PROGRAM RECOMMENDATIONS

Our first set of program recommendations concern three major programs in current law: Chapter 1 education of disadvantaged students, Chapter 2 school improvement grants, and Title VII, bilingual education.

A. Chapter 1

1. Early Childhood Transition

Two major federal programs serve disadvantaged children: Head Start and Chapter 1. A major criticism of Head Start has been that the effects of the successful early childhood development program do not carry over well into the school years. At the same time, the Chapter 1 program in the early grades does not provide the rich array of comprehensive services and parental involvement activities that is characteristic of Head Start. In creating the Head Start Transition Project, Congress has recognized the need to provide for the transition from Head Start programs to regular education programs in order to maintain and enhance the benefits of early childhood intervention programs for disadvantaged children.

NSBA has submitted amendments that bring these major federal programs into alignment with this purpose. The amendments make it clear that schools may provide Chapter 1 services to any child ages three or four, enrolled in a federal preschool program for disadvantaged children. These children would are be counted at half the weight of school-age children in the formula. The amendments also reserve 50 percent of new funding for basic grants, up to $1.5 billion, specifically for expanding Chapter 1 early childhood education programs and for transition services for children in preschool through grade three. This makes it possible for schools to design more comprehensive and effective programs for early intervention with at-risk children as Head Start and Chapter 1 funding grows to serve more eligible children.

2. School-Wide Projects

With some modifications, the school-wide project option under Chapter 1 can be a showcase for innovation and flexibility in federal education programs. It allows educators to abandon overly restrictive models of compensatory education, like the pull-out model, whose main justification is success in audit compliance, not improved educational outcomes. Instead it encourages site-based management and integration of supplemental programs with the regular education program. Another great advantage is that it promotes fundamental instructional reform to the benefit of large numbers of disadvantaged students in the school. At the same time it allows Chapter 1 funds to benefit all students in a school.

We recommend lowering the threshold to 50 percent to allow significantly more schools to design comprehensive school improvement projects for their disadvantaged students. To encourage wider participation in school-wide projects, we recommend that the local school board have explicit oversight responsibility for reviewing and approving school-wide project plans at public meetings according to criteria that promote success. These include the adequacy of resources relative to the project goals, the expected benefits for students, and the effectiveness of the educational program. To further ensure success and to encourage greater participation and targeting of resources, we also recommend that the Committee consider a separate authorization of $500 million for school-wide project incentive grants.

3. Targeting

Several recent studies of Chapter 1 have recommended increased targeting of Chapter 1 funds on high-poverty schools at the expense of students receiving services in relatively lower poverty schools. Since achievement data indicates that Chapter 1 services appear to be more effective with students in lower poverty schools, these recommendations have the perverse effect of moving Chapter 1 services from where they work to where they do not work as well. NSBA does not believe that Chapter 1 should cease serving a broad range of educationally disadvantaged students to concentrate on relatively fewer severely economically disadvantaged students.

A better solution is to increase federal investment in meeting the needs of disadvantaged students in high-poverty schools. As noted above, we recommend a new supplemental allocation distributed to all school districts based on the number of eligible Chapter 1 students served by school-wide projects. These school-wide project incentive grants would encourage greater participation and increase the resources needed for a successful project. The grants would also provide another way to target Chapter 1 funds on high-poverty schools without taking funds away from other disadvantaged students currently served in Chapter 1 schools.

4. Chapter 1 Assessment

The Chapter 1 program requires by law a complex assessment process for accountability at the student, school, district, state and national level. An unfortunate consequence of this has been over reliance on norm-referenced tests to the detriment of students and instructional quality. Another consequence has been much wasted energy and funds spent gathering aggregate test data of little utility to practitioners or policymakers. NSBA supports the use of sampling techniques to gather national assessment data and the use of multiple measures of student and school outcomes. We do not support a complete ban on norm-referenced tests in Chapter 1 because if they are used properly, they can be a cost-effective component of a comprehensive assessment strategy.

B. Chapter 2

The Chapter 2 program of partnership among federal, state, and local government is the only federal education program that invests in education improvement for all students in all schools. Its great strength is its responsiveness to emerging needs of students at the local level. Local school districts can assess their own needs and design improvement projects without waiting for the state or federal government to create a new categorical program of assistance and without complicated applications and burdensome regulations.

With some refinements and revisions to bring it up to date, a well-funded Chapter 2 program can be the primary vehicle for assisting local school districts with school reform initiatives.

1. Updated Purposes

Two major developments in national efforts to improve the nation's schools have occurred since the 1988 reauthorization of Chapter 2: the national education summit and the emergence of systemic approaches to school reform. NSBA recommends that the program purposes of Chapter 2 be amended to include the six national education goals adopted in 1989 by former President Bush and the nation's governors including former Governor, now President, Bill Clinton. These include readiness for school; school completion; student achievement and citizenship; science and mathematics excellence; adult literacy and lifelong learning; and safe, disciplined, and drug-free schools. The purposes should also include programs to develop, disseminate, and implement system-wide school improvement including adoption of new curricular frameworks, assessments, and model activities.

2. Direct Grants to Local School Districts

To encourage the development of model local projects for achieving the national education goals through system-wide school improvement, NSBA recommends that states use at least 50 percent of state Chapter 2 funds for direct grants to exemplary local school districts.

3. Authorized Funding

NSBA recommends that the authorized funding level for Chapter 2 be increased to $1.5 billion, an increase of approximately $1 billion over current appropriations. The local district share should increase from 80 percent to 85 percent when the appropriations reach $750 million. This is an effective way to assist systemic reform at the local level without expanding bureaucracy and increasing regulatory burdens or requiring the enactment of separate authorization of a new school reform program.

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C. Title VII, Bilingual Education

Currently less than 310,000 of an estimated 2.3 million children with limited English proficiency receive services through the Title VII bilingual education act. The increasing number of these children and youth in public schools requires a federal categorical formula grant program with an authorization of $500 million to assist all local school districts provide bilingual education services. The current system of competitive discretionary grants of limited duration does not allow for continuity of services, requires unnecessary administrative costs simply to acquire funding, and does not bring resources to school districts solely on the basis of need. Greater coordination with the Chapter 1 program is also necessary to provide remedial services when needed.

D. Impact Aid

The Impact Aid program has provided critical resources to local school districts for the education of federally-connected children for over 40 years. At the local level, it operates extremely cost effectively. But at the federal level, the program has become overly complex, riddled with special provisions, and chronically underfunded. NSBA supports the efforts of the National Association of Federally Impacted Schools (NAFIS) to form a consensus among local school districts for overhauling the program. We generally support the preliminary NAFIS proposal to simplify the program formula and make allocations better reflect the financial need of local school districts.

V. NEW PROGRAM RECOMMENDATIONS

Beyond the reauthorization of ESEA, NSBA believes the committee should work on authorizing several new programs that complement existing programs and respond to emerging educational needs. Two we will highlight in this testimony are the Link-up for Learning Act and the Immigrant Education Assistance Act. NSBA previously submitted to the Committee its additional recommendations for new program authorizations for urban education, rural education, educational technology, school-to-work transition, system-wide school improvement, and school construction.

A. Rationale for Link-Up for Learning

Increasing numbers of children in America are growing up under conditions that create the risk of academic failure. Almost every school district in America faces the difficult task of educating students who are living in poverty, poorly housed, and suffering from inadequate nutrition or health care. In addition, many children are faced with problems within their families that are becoming more prevalent across all income levels, particularly in times of recession. These include the effects of drug or alcohol abuse, family violence and sexual abuse, divorce and living in single parent families, job loss, and declining standards of living.

H.R. 520, sponsored by Representative Nita Lowey (D-NY), Representative Robert Andrews (D-NJ), and Representative Constance Morella (R-MD) directly attacks these problems. It creates the Link-Up for Learning Act, a federal grant program in the Department of Education to underwrite a coordinated approach by parents, schools, and social service agencies for the provision of educational support services for at-risk youth. It also initiates the establishment of a national youth policy among the agencies of the federal government. Of the $250 million authorized appropriation for FY 1994, at least $125 million a year would help school districts coordinate services for at-risk children and their families with other local, county, state, and federal agencies. Up to $125 million a year would be available to school districts to provide or purchase social services needed by at-risk students when serious unmet needs still exist despite efforts to coordinate. H.R. 520 currently has over 50 cosponsors including Representatives Miller, Owens, Unsoeld, and Payne on this Committee.

B. A Program for Immigrant Education

In recent years, many local school districts have found themselves severely affected by influxes of new immigrants as a result of federal immigration and foreign affairs policies. The children of these immigrants often need a full range of educational, health, and social services. Their numbers often create extreme overcrowding in school facilities. Meeting these extraordinary needs places a tremendous burden on these schools and adversely affects the quality of the educational program for all students in the community.

NSBA urgently recommends that Congress authorize an Immigrant Education Assistance Act, a major program of financial assistance to local education agencies to meet the general education costs, including special education and enculturation needs, of immigrant students located in school districts that have relatively high numbers or percentages of such students. Funds would be used for services and activities for immigrant students who have been in this country three years or less. Services would include basic instructional programs, supplemental programs, English instruction, cultural adjustment programs, coordination of social services, preschool programs, dropout prevention, school-to-work transition, adult education, and school construction and renovation.

VI. CONCLUSION

This reauthorization of ESEA is occurring after more than a quarter of a century of positive experience with large-scale federal assistance for elementary and secondary education. While ESEA has made great strides in compensating for the unequal educational opportunities of the past, it now faces the new and rigorous economic challenges of the future. NSBA urges the Committee to give serious consideration to the recommendations in this testimony for improving, updating, and expanding the federal role in education to prepare our school children for the 21st century.

Thank you for this opportunity to testify.

Mr. SAWYER. Let me thank the members of the panel—and also that we have been joined both by Congressmen Gene Green and Duke Cunningham.

Let me begin by touching on a subject that Dr. Mattocks raised with regard to teacher training and personnel development. It's clear that to be effective, that kind of training has got to relate very closely to the specific work that is going on within the district. It also has to be ongoing. It's not a single event; it's something that has some continuity to it and has been touched on in so many other things that our witnesses have mentioned this morning.

Can you expand on your thoughts on more or better teacher training, administrator training, how it should be provided? If, in fact, the 5 percent you have suggested were to be a part of this enactment, how well could that money be spent and how quickly?

Mr. MATTOCKS. Mr. Chairman, I think it would be a very wise investment on behalf of this subcommittee to do that. Strangely enough, you don't learn how to teach by going to college, any more than you learn to be a Member of Congress by running in the election. It is when you get on the job that you learn what the job is about.

Some of the best money we have in the school district is the Eisenhower funds, which is a direct benefit to our math and science teachers and can be used for in-service training. We have some very well-trained math and science teachers because of that grant, but the Chapter 1 people don't gain from that Eisenhower Grant. It would be nice if they could, if we could have some linkage between these two programs to where we could just treat it as one pot of money for staff in-service.

We could do that in a very specific manner because we would deal with teachers that—we would teach them about how do children who are either learning-disabled or children who don't learn at the same rate of speed as everybody else, how do we help them to get up to speed, as it were, or to learn in the same amount of time.

So far, we have put an artificial barrier to learning, and that artificial barrier is called the school year. It is an agrarian, 180-day calendar. Some kids can learn the material in 65 days; for some kids, it takes 220 days. We should make time a friend of the people, rather than an enemy as we do now. Through in-service training we can carry over some of these concepts and teach teachers how to deal with learning at differential rates, which is what Chapter 1 is about.

Mr. SAWYER. One of the real advantages to Eisenhower was the capacity for school districts to act in consortia with one another. It really has multiplied the effective dollars. Would this be a benefit in terms of flexibility allowed to school districts in terms of training, or does it need to be more concentrated? Any of you.

Mr. CHASE. I would like to just react to that and to your question in general.

Mr. SAWYER. Yes.

Mr. CHASE. One of the problems that educators have had over the last few years in the whole reform and restructure, or restructuring movement, has been the training component. As a matter of fact, when speaking with those who have been informed or involved with these programs, they will continue to tell us over and over again that the two major issues for them are, first, training, and, second, time. And the training component becomes particularly important.

Most industries or businesses and so on, there is a component of R&D that is built in, that's vitally important. That has been missing in the educational arena for a long time. The opportunities now, over the last few years, for more and more work in this area have given us more information on how kids learn and that type of thing.

The problem is that school districts oftentimes don't have funding opportunities available to have the type of programs in place to help transmit that information to those who are currently employed. So the concepts involved in the recommendation or suggestion here to have moneys available for training, I think, are vitally important.

Whether they be specific moneys that are earmarked or whether they come through the more general grants that I was referencing in my comments is something that's obviously open for discussion, but the importance of funding availability for this kind of activity is vital if, in fact, we are really serious about truly reforming and restructuring the way schools operate.

Mr. **Sawyer**. Mr. Boehlje.

Mr. **Boehlje**. The opportunities for consortiums and groups working together, I think, are important opportunities. I fully agree with the fact that more funding is needed, but one of the big issues is articulation of a number of these programs. Quite often, the targeted program gets isolated, and the cooperative efforts that you hope to come out of it don't come out of it because of a failure to link up with another program or to be articulated with other either organizations or agencies, for that matter. That is one of the things that we look to in this Link-up for Learning Act.

As a practical matter, if you are going to provide for collaborative efforts, which I think are very important, say you are going to apply for grants or use grants as a project, a board project, you need to provide some framework to articulate more than one program and pull these funds all together and use them with one agency, understanding what somebody else is doing. That's one of the big problems that we are facing right now.

Mr. **Sawyer**. Well, you have touched on exactly what my follow-up direction was on this. Both the need not to allow federally supported programs to operate in isolation from State and local planning and programming and the importance, as Mr. Goodling suggested during your testimony, that we not ignore the fact that programs need to be interactive.

Instead of pulling a kid out of class for one Federal program after another, after another, the notion that you can combine bilingual education and Chapter 1 efforts into a more comprehensive approach makes all the sense in the world. Would you care to comment on those thoughts?

Mr. Mattocks?

Mr. **Mattocks**. Yes, Mr. Chairman, it does make ultimate sense, and I would hope that the committee would pursue that. Another thing, as a practical matter, as budgets get tighter and tighter at the school level, I'm sorry to say that, between me and my colleagues, one of the first things that gets dropped is staff in-service training. We see that as an expendable when we're talking about, do we keep the body or do we forget the training, and sometimes we do both.

The sad comment is that we are saying that training for those people who are left on the staff becomes nonimportant, because we have cut all the in-service training budget. If this committee really wants to get its oar in the water in every public school in the Nation, they should encourage in-service training for staff and provide for it through Eisenhower and other types of grants, the 5 percent we were talking about. You would have a direct impact on the teaching of youngsters throughout the Nation.

Mr. **Sawyer**. Others?

Mr. **Chase**. I agree with that comment, and would also like to issue a bit of a caution, however, when we are talking about combining programs, although I speak in favor of that. When we talk and pursue that to the concept of inclusion that's out there and is, I believe, positive, it's positive only if it's done right, and that's where the problems come in.

When we have special need students who are placed in great numbers in a classroom without the type of assistance and help that that classroom teacher needs, what we are doing is building in failure for all of the students in that class.

I would recommend to you a film that's going to be on HBO later on this month, and unfortunately I forget the name of the film, but I previewed it just yesterday, which shows the work of a teacher and a student who was a Down's Syndrome student who was included in a regular classroom. It's a half-hour show that's going to be on HBO sometime in April, and as a matter of fact is up for an Academy Award, that shows how the concept of inclusion should be carried out within a classroom setting.

It's just a word of caution to make sure that once we combine programs—and I think that they should be combined—that we are very, very careful when we do that to not in that combination increase the burden not only on the teacher, but on all of the children in those specific classrooms.

Mr. **Sawyer**. Or, in fact, in blending take care not to blur them out of existence.

Mr. **Chase**. Absolutely. That's right.

Mr. **Sawyer**. Others?

Mr. **Boehlje**. I don't disagree with that at all. The important thing in the articulation of those programs is the original concept of which programs were set up to be recognized and be enhanced and not lost in the process. But one of the problems we have right now is that we have—well, as an example, I'm a small-town lawyer who sits on a school board. I prosecute juvenile cases for a local governmental agency. I also am appointed from time to time to represent juveniles in human services activities.

We have three activities that impact very strongly on, usually, Chapter 1 children, and yet we can't talk to each other. We have no way that we can move across those lines and talk to each other in the different agencies about getting done what needs to be done for that child because of the independent programs that are moving forward in all of those agencies. There is just no track or no avenue for collaborative efforts there, and that's one of the areas that needs to be expanded.

Mr. **Sawyer**. Thank you, and at some point I want to turn to my colleagues.

Mr. **Mattocks**. If I might have a follow-up, Mr. Chairman?

You already have a vehicle in place by which you could do this in-service training besides the Eisenhower, and that's Title V of the Higher Education Act, which has never been funded. If this committee would make it a priority when they talk to the Appropriations Committee and Labor and Human Services about funding that, it would make a difference.

Thank you.

Mr. **Sawyer**. Thank you.

Mr. Goodling?

Mr. **Goodling**. A few observations and then a question or two. I was glad to hear Dr. Mattocks talk about improving teaching and administration, because I have been saying for many, many years, it seems to me, we talk about everything else but the very leadership that is going to nine times out of ten determine whether anything good happens in a school or doesn't happen. We kind of ignore them, and we shouldn't be doing that.

I would hope that we could do more in Chapter 2 in many areas, that if we gave more money in Chapter 2 to the training and retraining, the whole reform effort, et cetera, could come from there, and it would give you the flexibility that most people tell us you need and you don't get from the Federal level.

Chairman Hawkins always used to say, "You're going to find that all the inflexibility is on the State level, not on the Federal level," and I always said, "There's probably enough to go around on all levels."

Mr. Chase, I agree with you that if we're going to have categorical programs, they should have sufficient money, and there should be a consistent effort. One of the problems that we are running into—and I will present it to all of you—is that I don't think it's a secret to you to know that public education gets more bad press than the Congress of the United States—and that's going some in order to do that.

I can just see Mr. Kildee over there this morning. I'll bet he is getting badgered right and left, "Well, tell me what program has ever done any good? Are things getting better? All we ever read about is things are getting worse in public education." He is probably really going through a real quizzing by his colleagues.

Somehow or other we have to change that focus. We have to have better results, I suppose. We just went through in my district I don't know how many dozen strikes last year. It just made me sick because I spent 22 years in public education, you know—22 years of almost every minute enjoying and loving, and to see what went on, and the letters to the editor, the school board versus the teachers, the teachers versus the administrators, the whole population against all of them, it was just tragic. It will never heal, I don't believe. I don't know what happens to the youngsters in a situation of that nature.

Somehow or other we have to get better statistics. We have to be able to show that Chapter 1 is doing awfully good things, and we don't seem to have that. We have isolated cases, and so on. We also have an awful lot of history of, as you indicated, youngsters going from one room to the next room and spending more time in the hall, but they are out of the hair of a teacher who would have had them if they had been in that classroom.

Chapter 1, to me, what I thought it was originally was over and above everything else every other youngster got. It wasn't to be a substitute, it was to be over and above, and I'm afraid in an awful lot of cases it isn't. I just saw where the "father" of Head Start indicated that there are only 30 to 40 percent quality programs out there, and yet we have been screaming how it's motherhood and it's ice cream and it's all those kinds of wonderful things. Apparently, you know, children have been suffering rather than gaining.

We do have an emergency immigration program and it's funded. Most of the money of course goes to California, Texas, and Florida, I would suppose, and it is probably not funded nearly enough.

Let me put the idea of what can we do in Chapter 2 along with some flexibility in the other program that we hand out to help you with the problems that you have on the local level. Is there a way to restructure Chapter 2? Is there a way to write flexibility?

See, the fear that a few people have on the committee, the most vocal, has always been that somehow or other the dollars won't get exactly where the dollars should go. My argument always has been, "But if the dollars aren't doing all that good getting there, then we ought to give us some flexibility, because they tell us they know better how to provide those services to get better results."

If we tell you, "This is what we want for an end result, here is the money, you come up with the innovative, creative ideas," is there something wrong with that, that thinking? Anybody that wants to comment.

Mr. MATTOCKS. Mr. Chairman and Mr. Goodling, I appreciate your question. There is absolutely nothing wrong with that. That Chapter 2, yes, could be restructured so as to allow interagency cooperation.

We have an innovative program in my school district that takes children who are tagged as learning disabled, puts them in their local elementary school in the morning and in the afternoon they are taken to their local behavior disorder center where not only educators, but the juvenile justice system, the social service agencies, all the agencies we can bring to bear treat that child in the afternoon on a cooperative basis.

This is something we are doing as a rare, and at times, coloring-outside-the-lines type of thing. If that were encouraged, I think you would see a lot more of that, and we would be geared towards helping the whole child with whatever we can bring to bear to help the child, and that would be a wonderful idea.

Mr. CHASE. I would concur with the concept of flexibility and also concur with a concept of standards to be met, but I think we need to be cautious when we do that to make sure that once we start measuring and come up with some kind of an assessment program, that we do take into consideration the resources that are available to meet that particular standard. That somehow in a lot of dialogue that goes on gets lost, and students are then being assessed without the proper opportunities to reach goals that are met. That is just another caution to throw out there.

The moneys that are earmarked for specific programs and so on, I believe that we need to continue to earmark moneys, but those programs within the programs themselves, there needs to be a huge amount of flexibility so it can be determined at the local level how the local needs can best be met with all of those who are "stakeholders," for lack of a better word, being a part of the decisionmaking apparatus to determine what those programs should look like at the local level. I think that that's particularly important.

I would also like to mention or point out the support for the concepts embodied in what's referred to as Link-up for Learning. The various community agencies that are empowered to assist youngsters are spread out so far and wide over the communities and have such administrative structures of their own to which parents and people have to operate with that oftentimes becomes a barrier.

It seems to me that it's very logical to put into place processes and programs where these various agencies can work cooperatively, where they can be accessible to parents, to community and so on, that they don't have to be spread far and wide throughout a community, and it seems to me that near the school is an appropriate place to do that.

I'm not saying that those things have to be or should be done in the school, but in conjunction with and proximity to, and so on, would be particularly helpful. And all of the programs that we are talking about here aren't stand-alone type programs that are education only, that don't need to be involved with those other community programs to help kids, and that's one of the problems that are out there.

Mr. Goodling. I suppose we——

Mr. Chase. We are reforming and restructuring schools, and we should reform and restructure social services agencies so that social services agencies and schools can work cooperatively to better meet the needs of young people.

Mr. Goodling. I suppose we should legislate differently than we probably have in the past, because we probably—the different committees have set up these turf battles——

Mr. Chase. Sure.

Mr. Goodling. [continuing] and that's something you have to overcome when you try to do that. At least that's a problem in our area.

Mr. Chase. Very difficult.

Mr. Goodling. Do you have——

Mr. Boehlje. Flexibility is probably one of the keys. One of the problems we have—and you're right, I think, in the perception that our education quality has declined. Many people feel that, but one of the problems that we have is that society has changed substantially.

We have a whole bunch of things now that are expected to be fixed in the public school system, so we have the public school system being involved in health care, we have them being involved in preschool education, we have them being involved in all these other areas.

When you look at the programs, in my observation, that have been very successful in meeting these needs. They have not been the top-down-driven programs. They have been local community programs where the community has come together and said, "All right, we have this funding available under this program. Here is what we are going to design to work in our community." Those are the successful ones.

Flexibility and Chapter 2 funding in seeking those grants, I think the more flexibility you have, the more helpful that becomes. The programs that were referenced here about the person doing an outstanding job in the classroom, that wasn't State directed. That was one person at one school system who really believed that they can put a valuable program together and look to Federal assistance in their funding to make it work.

Mr. GOODLING. I have to tell Dr. Mattocks my wife would like to teach in your system, because the Ritalin during the morning does wonders, but then in the afternoon she can't get him off the tables, the chairs, and stop using the four-letter words and telling her to shut up and where to go. She could send him to that—what do you call it?

Mr. MATTOCKS. Behavior center.

Mr. GOODLING. Disorder functioning-something. I don't know what it was. I'll have to suggest that to her. Every night I have to listen to this, all about Joey.

Again, I thank you for your testimony. Hopefully, we can do something that will be quality-oriented. Oh, one other thing I wanted, you talked about the training and the retraining. Over the years, that has gotten a bad name, too, I think in many instances because of lack of planning, in many instances because of participation of teachers and the local school administrator/supervisor. Is this changing?

Sometimes we used to, when I was still a teacher, sort of laugh about we're going to have this in-service day, and it was more of a joke, more of a day away from the kids than most anything else. Is that changing?

Mr. CHASE. I think the answer to that is yes. In my 25 years of teaching, I can remember some woefully bad programs to be sitting through as far as in-service programs are concerned. I also know that in the last few years because of a totally different focus, because of the fact that in-service training programs are being designed by practitioners, for practitioners, with the administrators and community folks and so on involved in the development of those, that the quality and character of those training programs have increased substantially.

Part of this is due to that, and part of it is due to some other kinds of requirements that are placed on the type of in-service programs that must be held or professional development programs that must be held by locals as a result of State law and so on, but always given the flexibility to be locally driven and locally developed, the quality is far superior than they used to be.

Mr. GOODLING. I'm glad to hear that. Get the good news out. You would make our job easier if you did that.

Mr. **Sawyer**. Let me observe that we have been joined by colleagues Mr. Gunderson and Mr. Becerra, and recognize Mr. Green.

Mr. **Green**. Thank you, Mr. Chairman.

Like Mr. Goodling, I would like to make some observations, although the in-service training or staff development—and I appreciate your testimony, but I keep hearing that it has not improved as much as it should and that still we need to set priorities and that's the reason they have been cut. I know involving the State legislatures is that when you set your priorities for your funding, I would much rather cut staff development days when the support group out there is not for the classroom teacher, for example, or the administration, and provide that funding for some other program that has support.

Last week, we heard testimony that 20 percent of Chapter 1 money should be used for staff development; and I think, as a goal, that's probably good. But again, as late as last weekend, I've heard that there were staff development days in some of the districts. There are good ones and bad ones, but it's generally, I think, the impression from the teachers I hear from and the administrators, it still has a long way to go to have a priority funding of 20 percent of Chapter 1 funding.

One of the questions I was concerned about in listening to lots of educators over the years on Chapter 1 is the number of pull-outs and the problems we have with that. I was glad to see the suggestion that we have schoolwide projects that would help eliminate that 30-minute pull-out, and again last week we heard that you actually only may be getting 10 minutes of time of actual education. Do you think reducing the threshold to 50 percent—well, it seems logical that it would help.

Again, if we prioritize Chapter 1 money, I would much rather have the pull-outs eliminated and maybe lower that pupil-teacher ratio to 15:1, or something like that, that we could provide that training for that Chapter 1 teacher, for example. Is the 50 percent that you suggest or that we talked about, is that enough to do that?

Mr. **Boehlje**. I think it's a start. That has to be coupled with more funds as a practical matter. You can't look at those two in a vacuum.

The other thing that I see in teachers and this ongoing in-service education and this sort of thing is that there is more and more recognition that you can articulate that program locally and you don't have to have—you find that your experts are right there on your staff. It's a question of getting them together and giving them the opportunity to discuss what they want to do with their own program and implement that. I think that's a very valuable portion.

I don't disagree with the concept at all that more of that funding ought to be available to that type of thing. Again, the important part is letting the people locally in the school district have an input and a determination of what that program ought to be.

Mr. **Green**. I would like that. I have heard, though, again, as recently as last week, that a lot of it is just filler time that they use those staff development days. You know, they would have much rather have had class time, or not necessarily class time, but preparation time maybe, and I know that's part of it, too.

The other question, on page 8, where you talk about the discouraging norm-referenced testing, the establishment of national standards for all students to focus on high-order thinking. Will this result in less use of the norm-referenced testing? Again, I think we all want some type of benchmarks, and we are looking for that middle ground that we can have.

Mr. **Boehlje**. I suspect that it will result in less use of norm-referenced testing. You know, that's an issue that is controversial and very important to a number of people. When I look at the desirability of assessment, I am somewhat prejudiced, because I have sat on the National Assessment Governing Board and I look at NAEP, and I think that's a good approach to the matter.

I don't know why that can't be used, that type of tool, in assessment for purposes of determining the assessment level of Federal projects. In other words, a representative sampling, rather than an individual test developed for the individual student where you can track that student.

I think it's perfectly logical to assess the value of a program on a sampling technique, and I would think there would be less cost involved and just as much accuracy as far as the determination of whether the program is successful or not. The point was made earlier, you can't divorce assessment of any program from the funding available to that program and the resources available to that program. That has to be a part of the assessment process.

Mr. **Chase**. I would like to add some to that, to the discussion on assessment. I think—well, I know right now there has been an enormous amount of research done over the last few years on different types of assessments, the qualities of different types of assessment, as well as the efficacy of these assessment tools. I think we need to be very, very careful that we don't lock ourselves into a situation where we start to determine the quality of a program based upon an assessment, and that assessment being a traditional-type paper-pencil test, and so on.

Right now, there are lots of other means of assessments that are out there that have proven to be much more valuable in determining the nature of a program and also in determining the progress of individual children. I would hope that those kinds of authentic assessment tools would be used and looked to in assessing the efficacy of different programs that are out there.

The problem connected with those kinds of assessment tools, obviously, is the fact that they are more expensive. That's an issue that has to be dealt with, and I am not blind to that fact or look upon it mindlessly without the impact of cost.

Mr. **Sawyer**. Would the gentleman yield just a moment?

Mr. **Green**. Yes.

Mr. **Sawyer**. Could you comment also about the difficulty in trying to reach comparability and the capacity to aggregate data that is more subjectively analyzed?

Mr. **Chase**. Some of that does become problematic when you are looking at different forms of assessment and different tools, but I think what we need to look at is what the purpose of this assessment is going to be. If the purpose of this assessment is to improve instruction and improve opportunity for students, do we necessarily have to have the kind of aggregate numbers nationwide, or whatever, that you're looking for, or can we come up with other means of meshing the results of the various types of assessment that are out there?

I believe that we can do the latter. I believe we are still in the formative stages of being able to do that, but I think that can be done. Most of the testing agencies that exist, the agencies such as ETS and so on, are of the mind that that can be done eventually and are working towards being able to do that, but it's just going to take a little bit of time, a little bit of experimentation to see exactly how that will wind up at the end of this particular type of research that's going on.

Mr. **Green**. The concern I have it that in the mid-1980s we tested everyone from 1st grade to 11th grade——

Mr. **Chase**. Absolutely.

Mr. **Green**. [continuing] and we know it's wrong. I just don't know if the pendulum should swing all the way back.

Mr. **Chase**. I don't think that it should swing all the way back. I don't think that anybody is saying that there should not be assessment and that people should not, educators should not, be held accountable. We're not saying that at all. I think what we're saying is that we need to look at the new era of tools that are available to do that and not be blocked into the "traditional methods" that we have used for the past X amount of years.

Mr. **Green**. I agree. Thank you.

Mr. **Mattocks**. Mr. Chairman and Mr. Green, if I might respond? We have these Chapter 1 kids, and we give this test once a year and report to the State and to the national, and that is supposed to be the basis of how good our project is. What's wrong with the idea of testing a child several times a year to see what their status is and to have corrective teaching procedures applied in the meantime which then becomes a focus on student learning, rather than the focus on the end-of-the-year test to satisfy some Federal requirement? That's what we're arguing for—excuse me, at least what I'm arguing for.

Mr. **Green**. Frankly, I think that's what the whole issue of tests should be. It's not necessarily if you jump through those hoops, it's to benefit that student, and I like that idea.

One last question, Mr. Chairman, and I'll try to be brief. I appreciate the testimony in merging bilingual funds under Chapter 1. My concern, coming from Texas, and a number of other folks—and we don't get near enough money for bilingual education—is that I'm worried we may lose—bilingual children may just be placed in Chapter 1 without any of the transfer of the funds.

We see what little bit of grant funds there are, and I just don't want to see that program lost in Chapter 1. I think we need to serve those children under Chapter 1, but I also think, you know, bilingual should be a separate program, and we ought to be able to identify it. I just don't want to lose the program. I would like you to comment on that.

Mr. **Mattocks**. Mr. Chairman and Mr. Green, I agree with your assessment, and I wouldn't want to see that lost either.

I feel like I'm in school with these bells ringing.

Mr. **Sawyer**. Except, as the line goes, we have no adult supervision.

[Laughter.]

Mr. **Mattocks**. We have a growing Hispanic population in my school district, and so we want to see that protected also. As a matter of fact, I made a commitment to my board recently. So that I could better communicate with people of the Hispanic background, I am now taking Spanish lessons myself, and what I'm finding is I'm becoming a bilingual illiterate; I can't communicate in two languages. We think that needs to be protected also.

Mr. **Boehlje**. Our position is basically that the program needs to be protected and expanded. We aren't serving nearly the number of people in that area that we need to serve. I have a daughter that is a bilingual teacher in Arizona, and that district had to fight to get the funds. She would be overwhelmed with students if they could afford to hire enough people to cover it, but they just don't have the funds to be able to do it.

Mr. **Chase**. We would concur with that. I mean, the need for bilingual education is growing. You don't need to be told that, coming from Texas or anyone coming from anywhere, that it's growing. In our comments today, we try to reference the fact that those categorical areas that are included here should continue to be included. It doesn't mean that there can't be some opportunities for folks to work together, but it does mean we should not abandon the needs for those kinds of programs and to fund them appropriately.

Mr. **Green**. Yes, the problem we have is not—well, sure, the funding is always a problem, but having qualified and certified bilingual educators in Texas, we have recruited, like a lot of other States have, just nationally and internationally to try to provide, you know, the personnel that's needed.

Thank you, Mr. Chairman.

Mr. **Sawyer**. Thank you. I would note that we have two Californians and a Texan; we're ready to vote.

[Laughter.]

Mr. **Sawyer**. And an Ohioan who spent the last 3 years working through the census to measure precisely what you're talking about. It is a problem, unfortunately, that in many parts of the country the real magnitude is simply not appreciated. I'm grateful to you for raising the topic as you did. It's the difference between effective blending and blurring and losing programs.

Mr. Cunningham.

Mr. **Cunningham**. Thank you, Mr. Chairman.

I would like to associate myself with the remarks from my colleague from Texas. My old district was 70 percent minority; my new district is white-collar. As a matter of fact, it's a 25 percent Republican advantage district, and there is very little Chapter 1 funding, but I bring with me from that old district the need for Chapter 1.

My wife is bilingual; she used to teach Spanish. She is a principal and an administrator now, Doc, and I want to tell you, you've got nothing. I've got two daughters that speak Spanish, and a wife, and now they're working on dad, too. I know your problem.

I have read—I apologize for being late—but I have read over your remarks. I would like to let you know what I do support in this package. Chapter 1, I think, is very important, and again I associate myself with the remarks on bilingual education from my colleague from Texas.

I also understand from a comment, that society has changed in quality of the types of education we have and what we need to have a child learn, but I would also think that we need basically to have a child be able to read and write and balance his checkbook. You know, Members of Congress didn't, evidently, learn that, and I think that that may be transposed a little bit better.

In the method of allocation is where we have agreement, and I think all of the members right here agree for Chapter 1 funding that—in California we are receiving about 600,000 new students per year into the State of California, and many of those fall under Chapter 1—that that is very important also.

Also, I think something that this committee and that you would be very supportive of is Impact Aid—with a consolidation of the military in different areas, Impact Aid is going to become very, very important and how we distribute that. I know San Diego, of course, has got a large military district. That is not my district. It is mostly my two Democratic colleagues from San Diego, but I am supportive of that because I know the impact to the community and to the military as well.

I am also asking your support—when you talk about how a child learns outside of the school, and the President and Chairman Ford is, I think, supportive of Mr. Goodling's and the Republicans' side of the Apprentice Program that was offered in the last Congress, I think that outside of the school and how we extend that is very, very important.

I have a question for Mr. Boehlje, because my wife, being a principal, deals with the school board every day. I would ask if there is a system or at least recommendations on the conduct or the content of a school board? Maybe not mandates, but at least recommendations. I know in different districts I've been in, I would not hire some of the people that are on school boards to run my business. I think their administrative skills would be chewing on the "McCrimmen Reader."

When those people are making decisions that are going to affect both our children and the community, we ought to offer some kind of guidelines. I would ask, do those guidelines exist? A 3-day seminar is not available, but, you know, teachers have credentialing, and maybe we ought to take a look at that association. I don't know if that even exists or not.

Mr. BOEHLJE. I don't know that—well, there are not specific guidelines, as you're well aware. Every State has their own approach to how school board members come into being.

Mr. CUNNINGHAM. Ours do.

Mr. BOEHLJE. One of the primary purposes of our organization is continuing education of school board members and recognizing and aiding them in recognizing what their duties are as school board members. You know, you do see the bad example from time to time, but for the most part, our membership is locally elected by their community and is basically representative of their community.

Most of them come on the school board with some specific concepts of what they want to do for education, or they may have a specific plan that they are involved in, and one of the first things they have to learn is what a school board really does, because most of those people don't know until they actually get there.

The best I can say is that that's one of our big jobs, is continuing education of our membership as to how a board operates and how a board functions and what they ought to be doing. States are addressing this from a number of different directions, whether they are talking about mandatory continuing education for school board members or whether they are talking about specific certification requirements to run for a school board.

Then you get into the discussion of, if you don't have requirements for people who are going to run for your State legislature as far as certification, how can you ask a local school board member to have a higher requirement than that. As a practical matter, I think in many instances their job is more important, and maybe that is a legitimate question.

Mr. **Cunningham**. I would thank you for the answer. The reason it motivates me is that we have in one of the districts, members that, for example, don't even have a high school degree and others that were elected because they are pro-life, and they try to exert that within the politics of the school system.

I think when we involve politics—and I'm talking right wing and left wing politics—into a thing, I think that's wrong when we get away from the sight that they are there, and that is to improve education and stay away from the politics. Maybe you can't do that in communities, but I think if we had some kind of guidelines, or at least a recommendation, not a mandate, come out of the association, that we could at least generally comply and give a guideline to the different communities, and that—I don't know, maybe they could use that to help.

Another area that I would strongly support, and that's where you're talking your Violence-Free School Act. We can't continue to have to have a principal dial 911 every hour—and support it. I want to thank the members for coming, and I want you to know my wife will receive the facts of which you talked about. I want to thank you.

Thank you.

Mr. **Sawyer**. Thank you, Mr. Cunningham.

I'll note also that we have been joined by our distinguished colleague from New York, Major Owens, and turn and recognize Mr. Becerra.

Mr. **Becerra**. Thank you, Mr. Chair.

If I can just add, Mr. Chair, I think a lot of us here are very thankful that you were there watchdogging what was going on with the census and trying to do your utmost to make sure that there was an accurate count.

Gentlemen, I think you have probably answered a lot of the questions I might have had, but let me pose a question I'm certain you have an answer for. Where are we going to get the money to increase funding for these educational programs?

Mr. **Chase**. I'll be glad to try to respond. I'll bite. I think the answer is a simple answer but a hard thing to do. The simple answer is to look at the priorities that Congress has, and if, in fact, the priorities aren't children, then the investments are wrongly placed. When we're talking about investing in the future of our children, that means that we have to invest in programs that will prepare them for that future.

There are few programs that are more significant or more important than education. Does that mean that hard decisions then have to be made? Sure, it does. Does it mean that programs or moneys may have to come from other programs? You bet it does. Does it mean that some of that, in my opinion, may come from a reasonable reduction in the area of defense? Yes, it does.

Those are, frankly, the decisions that you have to make, but I would just ask you in making those decisions to understand that we are talking about the infrastructure of this country. There is no more significant or important infrastructure than people, and there is no more important element in developing a strong people infrastructure than making sure that those people receive a good education. As I said, it's a simple answer; it's a difficult thing to do.

Mr. **Becerra**. Any other fish willing to bite?

Mr. **Mattocks**. Mr. Chairman and Mr. Becerra, I agree with what Mr. Chase has said. I think we have a window of opportunity here in that the budget walls are coming down and we might look at a realigning of the priorities of the Federal Government, as far as how they spend their precious dollar.

I have been a school superintendent for 21 years, and for most of that time I thought whenever I came to Washington, DC, or when I went to my State capitol, I was a member of a special interest group. I considered myself to be on the same level as a manufacturer of some widget or a grower of some widget that was asking for some concession so there would be a greater profit there, and I have lately changed my mind because I'm seeing some erosion of the support to education. Maybe that's the reason I've changed, but I don't see this as a special interest group anymore.

I think kids and the support of kids and the education of kids in this country is a societal imperative, and I think it rises above any special interest group and deserves the full attention of anybody who has control of the dollars that are going to flow towards education.

Mr. **Boehlje**. I think the public does recognize that education is one of the primary considerations that has to be addressed, and I think our Nation is ready as a whole to support commitment of more funds to education at somebody else's expense, some other organization's or group's expense. There are other ways that you can accomplish some things, though, and that is through articulation and refinement of programs to avoid the competitive programs for the same dollars that are doing the same job within the system as you have now. Those issues should be addressed at the same time.

Mr. **Becerra**. Would you, any of you, support a policy wherein if a dollar is allocated to education it must be earmarked, and the funds that are taken from some other program, it's understood that those funds will go solely to education? In other words, I know this was discussed a lot in California last year because we had a massive budget deficit. There was talk that if you're going to cut other programs or raise taxes, it would be for the sole purpose of sending it over to schools.

Mr. **Chase**. Yes.

Mr. **Becerra**. Would either of the other two of you support something like that?

Mr. **Boehlje**. Oh, I think so, yes.

Mr. **Mattocks**. Mr. Chairman and Mr. Becerra, I'm not sure what you mean by earmarking, because that, at least where I'm from, has a rather negative connotation to it in that if the earmarking is supported by a specific funding source, and if that funding source dries up, then so does the earmarking. At least in part of the west, we have become somewhat leery of the term, so that's the reason I'm a little hesitant in my response. If we're just, in general, then yes would be my response.

Mr. **Becerra**. So long as the funding exists?

Mr. **Mattocks**. Yes.

Mr. **Becerra**. Okay. On the issue of bilingual education and the need for not just dollars for bilingual education, but, as I think you may have mentioned, the need for qualified teachers, how do we get there quickly to satisfy the massive need we have for qualified bilingual teachers?

Mr. **Mattocks**. Mr. Chairman and Mr. Becerra, right now there is a premium on bilingual teachers. They are being mainly attracted to the southwest, from Florida all the way across to California, and I know of some districts who will pay a bonus of anywhere from $2,000 to $5,000 on the scale to get a teacher who has bilingual capabilities to teach bilingual children.

We can't compete with that kind of thing in Idaho, even though we have a bilingual population that is very minimal. Your question about how do we get enough people up to speed and trained is a good one, and I don't know how we will overcome that without massive infusion of some training dollars to say, "We'll help you do this."

Mr. **Chase**. There may also be programs that the Federal Government has put forth in the past, particularly as it relates to education programs for prospective teachers with special grants or special scholarship assistance for those who are willing to go into bilingual education. That's not a short-term solution, obviously, because that takes a few years to accomplish, but it's a potential solution.

Mr. **Becerra**. Finally, one last question, Mr. Chair.

The whole discussion of assessment standards, one of the concerns I have—I agree that we need to have some very tight standards that really give us an idea of how our students are doing and our teachers and administrators. How do you devise standards that accurately assess LEP students who, as difficult as it is to assess their ability to start understanding English, may also have some problems when it comes to getting to the point where they are competent in some of these other courses that they will be taking?

Mr. **Chase**. I don't see why it's not possible to have assessment tools that are multilingual, and why do all assessment tools have to be in English. That doesn't make a whole lot of sense to me, first of all.

Secondly, if we're talking about authentic assessment tools, which include such things as portfolios, et cetera, et cetera, et cetera, those kinds of things, in being part of the assessment process, I think, lend themselves to a fairer assessment and a more accurate assessment of students who have a limited English proficiency. We are not, then, relying on a single standardized test with all of the language biases that are included in those.

Mr. **Becerra**. Thank you for your testimony.

Thank you, Mr. Chair.

Mr. **Sawyer**. Let me just offer by way of observation that the notion of dedicated revenue streams for purposes of education is not unknown to the Federal Government. It certainly was the case in the last century when we set aside dollars from the expansion of the railroads west to create a system of land grant colleges, that while it didn't yield a federalized system of higher education, it certainly set in place the movement that has created what remains today of the world's finest postsecondary system of education, and it is certainly an idea that is worth repeating.

Major Owens.

Mr. **Owens**. Yes, Mr. Chairman.

Due to some other obligations, I wasn't able to get here earlier, but I do want to thank the panelists for appearing. I have read your testimony, and I would like to ask—oh, first, I would like to make a macrocomment, and then I would like to ask a macroquestion.

My macrocomment relates to the last question my colleague asked. I hope that you will join me in becoming a little more aggressive in answering that question about where would you get the money from as leaders in education. You know, education is certainly one of the—much to my surprise, one of the functions of government that is quite threatened right now in this budget process.

I'm hearing they are talking about cutting some education programs that I consider vital, on the one hand. On the other hand, there is no enthusiasm for increasing Chapter 1 so that no communities are left with a loss of Chapter 1 funds, and the very fact that we are having such difficulty trying to get that one piece in place bothers me a great deal. Education is in danger because of this concern with where are you going to get the money from, and the inability of our people to answer that. I would like for you to join me in developing a response that is loud and clear, you know.

You can get the money from the CIA and the intelligence budget, which is more than $28 billion. Right now, it is more than $28 billion going for spying on whom? We could cut that in half and use half of what we save to go toward the deficit and the other half for education.

You can cut NATO. NATO has no function anymore. NATO can't deal with the Yugoslavian crisis. Yet, you know, we're having to deal with it directly as a Nation, and NATO is sitting there, but we're paying the salary of the fat generals in NATO—and a lot of them are not American generals either.

You can cut overseas bases. When people start cutting—don't say cut the military. You're fighting a lot of people. There are a lot of communities depending on the military. Their local communities will be at a great disadvantage if you close down a base. There are some weapon systems that are still in process. You know, we don't have to do that. Close the overseas bases, and you don't dislocate and you don't hurt any American communities.

We can stop subsidizing mohair as a strategic material. Do you know what mohair is? A kind of wool. You know, we subsidize the growing of mohair sheep so that that strategic wool which was strategic 20, 25 years ago for some reason, I don't know, but they admit it's not strategic now. Most of the shipment was going to the Soviet Union 4 or 5 years ago, and when the Soviet Union's economy collapsed, now they have no market, so the subsidy that you are paying as taxpayers for the mohair farmers has gone up. You know, they are making up to $150,000 in subsidy on growing sheep for mohair.

The strategic oil reserve does not have to be filled as fast as it is. You can slow that down and save money.

Superconductor, Supercollider, you know, we're going to crash things together and find out how the universe was formed. I'm all in favor of that, I'm not anti-science, but we can slow that process down some more. The President has tackled it. It is being slowed down to some degree; you can slow it down some more and save much more money.

Space station, they all admit that there is total confusion in NASA on that space station, and they need to redesign it, yet the same amount of money almost is going into the budget for it. Let's slow it down some more, put less money in it.

We are about to build a $17 billion—commit $17 billion to a new cargo plane when we have a lot of other cargo planes that are quite effective. We are not expecting any brand new type of war, so why do we need new cargo planes?

On overseas bases, Japan is doing us a favor. They now pay 75 percent of the cost of the people in Japan. Why can't the prosperous Germans pay that in Germany? And the other countries, why can't they pay it? If they don't, why can't we just immediately pull out our troops and save the money there?

I'm talking, gentlemen, about $100 billion in savings. When you add all that, you've got $100 billion in savings, and if you just put half of that in education, you would be in great shape. You don't even have a quarter of it. You know, there is a lot of money. There is a lot of confusion that happens around here in Congress. It seems some of my colleagues don't know where they are going, unless the talk show hosts lead them. If the talk show people don't tell them what to do, they get confused.

All I'm talking about, these are figures that came from the Congressional Budget Office, the CBO, not Major Owens, a liberal from New York, but the CBO. The Congressional Budget Office gave a report to the Budget Committee a month ago which talked about these kinds of cuts, and yet we're wandering in the dark around here.

Freshmen want to cut something, you know. They are going to cut the elevator operators. You know, highly visible pennies that they see, but nobody seems to know where the money is. I'm telling you where the money is. I'll be happy to send you a written document, because I want to enlist your aid as leaders in education.

Education is threatened. They are talking about cutting certain pieces. In fact, the Chapter 1 is in trouble, to let you know that they're strutting. That's my macrostatement. Join me in leading America and helping to lead the Congress and helping to lead other leaders to see where the cuts can come from. These are sacred programs that have existed under a past administration.

Oh, I forgot to mention Star Wars—Star Wars. Star Wars when it came out, all the scientists said, the majority of the scientists in the country said, "Star Wars is no good. It's not going to do what you want it to do." Over the years, we have come to the conclusion Star Wars was just a boondoggle, a good way to employ high-level scientists.

Democrats almost killed it one year. Now we have a Democratic President. Now he is cutting back on Star Wars. Why not eliminate Star Wars? Billions of dollars we are talking about. We are not talking about little money.

Go back and tell your constituents, go back and tell the people in school. We are threatened for no good reason. Education is in trouble this year, in this budget year, for no good reason. The money is there.

My other question is related to this. There is a feeling that there is some kind of strategy here that we can't quite pinpoint, some of us members on the Education and Labor Committee, that education can wait a while before we make some radical changes. We're dealing with health care, we're dealing with stimulus, that education can be put on a back burner and that, other than Head Start—which I'm all in favor of increased funding for Head Start—other than the initiative with Head Start, the Summer Program by the year 1997, full funding. You know, I'm all in favor of that, but every other aspect of educational reform can wait for a while; there's no urgency.

You know, we had "A Nation At Risk," come out under Reagan. Bush said he was the "Education President" and we had "America 2000." Now we have come to a point where suddenly there is some kind of foggy notion that powerful people are promulgating around here that we can wait for educational reform. What do you think of that? What is your reaction to that?

Mr. MATTOCKS. Mr. Chairman and Mr. Owens——

Mr. SAWYER. You're welcome to try.

Mr. MATTOCKS. [continuing] never being known as the smartest kid on the block, I'll start out. I've got to agree with you, Mr. Owens, about the ability to transfer some funds that are being spent in other places toward education. What I would point to, in particular, and I'm recalling from memory a presentation by Geoff Faux, who is president of the Economic Policy Institute here in town, when he said that we spend $20 billion a year defending Norway, and he said, "From what?" I have the same question, because I married a Norwegian, and she doesn't need protection from anybody, I can tell you that.

[Laughter.]

Mr. MATTOCKS. I would also say, I have a couple of points I would like to offer. Until we turn ourselves as a Nation and decide that education becomes a societal imperative, as I have spoken about before, we will continue to be left behind, left out, and whatever else you want to say about that.

We had this happen once before, and it was at that point in time in the late 1950s when the Russians shot something up in the air that didn't come down. We all got scared, and we all said, "We've got to fix our educational system, and we've got to start producing scientists and engineers that will help us catch up and pass the Russians."

We had a whole bunch of programs at the Federal level in the early 1960s that helped us do that, and teacher training and inservice at that time was very, very intense. Our educational levels increased, and we put the man on the moon, "And that's the rest of the story," as Paul Harvey would say.

Something that is happening in regard to the economy, there are some governors in this Nation who are very good at attracting new businesses that build up their economic infrastructure within the State. Those governors, I have noticed a common theme is that they see an investment in education as an economic investment in their State, and because of that investment, the outside business groups come in and say this is a good place to be.

When we, as a country, start seeing an investment in education as an investment in our economy and not a move away from the economy, then we will also be, as a Nation, starting to learn that it's education that is what drives this wheel.

There is nothing that gets my flame going quicker than the people who come up to me and say it's science that put man on the moon. Nonsense, it wasn't science that put man on the moon; it was education that put man on the moon, and we need to start realizing that.

Mr. CHASE. Let me just indicate, too, that I'm aware of the $20 million for Norway and a whole lot of instances like that, and we would be glad to talk with you or anybody about those.

Mr. OWENS. You said million or billions?

Mr. CHASE. Billion.

Mr. OWENS. Twenty billion.

Mr. CHASE. I want to share with you also that we have been involved with the campaign for new priorities over the last couple of years, and I know that you are aware of that campaign, and it does, in fact, assist in pinpointing some areas where we think money can be redistributed to meet the needs of people in this country, so I would call that to your attention. Anything you can send to us that will help us to help you in diverting moneys to more appropriate places, we would be glad to receive that, that information.

As to whether or not education can wait, I think the answer to that is, no. Every year we wait there are more lives that are lost, and every year that we wait there is more—if you want to put it on the basis of an infrastructure-type thing, the infrastructure gets weaker and weaker. It costs more money later on to rebuild that infrastructure to help those people, so the concept of putting educational reform and restructuring on hold is really the antithesis of where we should be going.

I would hope that through your good offices and the good offices of the members of this committee, that any thinking along that line will be pushed aside.

Mr. BOEHLJE. I think one of the things that we recognize is that we, those of us here talking to you today, have to be more effective advocates for education and education funding, and we've got to take that challenge on and convince your colleagues that that priority is there. I agree fully, we don't have the time to wait. We have to convince you now that the need is there and that reallocation of funding has to be made, and that's one of our jobs. We've got to be here and convince your colleagues that that has to be done.

Mr. **Owens**. Well, you represent a very powerful group of grassroots people. One of the problems is that they get caught up in the romantic idea that really education is a local matter, and you really shouldn't press too hard to get the Federal Government too involved; they may step on our toes a bit.

Well, you know, the Federal Government's involvement is less than 6 percent in terms of educational expenditures of all kinds, including higher education. There is room for a lot more Federal involvement, and whether we like it or not, we are already having—we have set national goals, we are about to set national standards.

Even if we went up to 25 percent involvement, in terms of funding, it would not hurt. Seventy-five percent of the funding would still be under the control of local and State government. Twenty-five percent Federal involvement between now and the year 2000, I think, would be highly desirable and would produce some money that is very much needed that I don't think States are going to produce, State and local counties are going to be able to produce, as long as the taxing patterns go the way they are, with the Federal Government getting the lion's share.

They are spending the money in wasteful ways somewhere else, let them spend it on education. I hope you will be able to get that message across to local school board people, that they are in a very powerful position to educate the American people in terms of the need for national involvement, Federal involvement.

Every other nation in every other industrialized society has far more central Federal involvement in education than the U.S. Now, we don't want to go as far as they go, because in many of these nations the Federal Government, the central government runs education, but we could certainly look to what's happening with our competitors and understand that there must be more Federal involvement than we have now, and start demanding that.

It's our money. All the money comes from the local level. Tip O'Neill said, "Politics is all local," so is funding, so is taxation. It is all local; it comes from the people. There is no pot of money in the Federal Government that belongs to the Federal Government that should not go back to the people, and certainly it should go back to school boards and schools to be able to fund our schools.

Mr. **Boehlje**. I don't disagree with what you said. That's one of the positions that we like to articulate.

Mr. **Owens**. Thank you very much for agreeing with me.

[Laughter.]

Mr. **Sawyer**. Let me just add that as long as Congressman Major Owens is in a position to speak, education is never going to take a back seat, never going to take a back seat.

Let me just close with one question. It ties right into what Congressman Owens was asking about in terms of Federal participation. We have heard one proposal after another in the course of the four hearings that we have conducted so far, including this one, about the importance of high expectations for Chapter 1 students and that those expectations be tied very closely to State standards, and we have heard a great deal about the importance of flexibility as those States that are really struggling to achieve this sort of thing try a variety of different techniques.

As we agree fundamentally with both of those notions, we still have that abiding question in the back of our heads: What do we do with those States with low or no standards? What is the appropriate Federal response in writing the Act, and specifically Chapter 1, in addressing that particular kind of problem?

Mr. **BOEHLJE**. One of the problems that you—you know, one of the things that happens often with Federal programs of this nature is that if you don't feel the standards are being met, the funding is cut off or reduced. Unfortunately, that just exacerbates the problem, because these are the very people that need the help.

I guess it gets back to the question of advocacy and the encouragement of those particular States who are not setting sufficient standards to encourage them to do so and to, I guess, be more advocacy-oriented as far as the standards that are required of them.

I have a real problem with cutting off funding, as an example, but I have no problem with the concept of setting up higher requirements from the very beginning and saying this is what it takes to accomplish this program.

Mr. **SAWYER**. Let me refine the question a little bit. We have all argued toward flexibility, for example, in performance outcomes, and even those States that any one of us might not agree with in terms of what they provide for expectations, have expectations nonetheless. But in concentrating on performance outcomes and ignoring the way in which we achieve delivery standards, how we get from where we are to where we need to go, I'm concerned about over concentrating.

It's much as the concern we heard about blending responsible programs and blurring others out of existence. When we provide an enormous amount of flexibility and we don't focus on how we get there, we run the risk of not getting there. Am I making any sense to you?

Mr. **CHASE**. Let me try to respond, because that is a particularly difficult question to respond to, I think. I, too, would be opposed to any kind of a cutoff of funds if standards aren't met, but I certainly think that people should be held accountable to good faith efforts, to making sure that standards are in there. I think there's a role here for the Department of Education that perhaps it hasn't stepped to the plate with before.

I would submit to you that—I'll try to say this somewhat delicately, that the Department of Education could, in fact, become an advocate for public education and helping States and localities achieve their goals, rather than a department whose function, at least that which was most public, was in bashing public education.

I would submit that perhaps if, in fact, that was a new route that the Department chose to go, that those States that are having difficulty in establishing standards and in meeting standards could get some help from the Department of Education in mutually working towards doing that—not imposing, but in helping them develop and go in that route.

I don't see anything wrong with that. It seems to me that, in fact, that should be a very important function for the Department. I guess that part of the answer would be a refocusing on some of the activities of the Department of Education to do those kinds of activities.

Mr. **Mattocks**. Mr. Chairman, as I pointed out in my statement, I think part of this revolves around the idea of trust. I have never known a teacher, even the poorest of teachers, who has not honestly wanted kids to learn in his classroom. Sometimes they just flat don't have the ability to get it done, sometimes the kids are refusing to get it done, but the teacher still wants kids to learn. We have to trust at the very local level that that's going to happen.

As Mr. Chase has pointed out, sometimes the Department of Education and, by extension, State departments of education have become more enforcers and regulators and those who try to make sure all the I's are dotted and the T's are crossed, and we forget about education of the kids. Yours, indeed, is a very tough question. I'm glad you saved it for last because I wouldn't want to go through an hour-and-a-half of questions like that.

AASA, I think, would recommend that we form a school finance commission to study what adequate education requires. We still don't know what that means. You have the OERI budget up for reauthorization during this session. That could be one of the tasks they are given this year with the money that you provide for them, "Study this and let us know what it is," through the regional labs or through contracts that OERI would sign, or whatever, and then urge the Congress and the Department of Education to advocate those requirements once we find out what they are.

Education is still an imprecise science. We are late—let me turn that around—we are still early to the idea that we can diagnostically evaluate kids and see where it is that we want them to go and provide the proper alternatives in the meantime through the teacher.

Mr. **Sawyer**. It is a very difficult question. It's one that this panel has struggled with in the course of this past year. If I could be permitted to offer a thought or two, we have been, as you rightly point out, too often overly prescriptive in the details of what it is we do and how it is we go about doing it, and opening up to the most creative kinds of flexibility is an important part of this process.

At the same time, at least in the course of the debate that we held last year over assessment in its broadest scope, we spent a great deal of time talking about defining goals and outcomes, and if you create that market, then the rest will follow: the curriculum, the textbooks, the instructive techniques, the teacher training, and all of those things that go with it. It will create its own market, and those good ends will follow.

I guess I'm more persuaded by the direction that the National Council of Teachers of Mathematics took in establishing their goals, their outcomes, and then the vehicles and tools—with great flexibility on how you achieve that over the course of a 12-year period of time in which that notion of diagnosis and remediation was an important part not simply at points of rights of passage, but throughout the course of a child's education.

It seems to me that as we look at Chapter 1 and those very same questions. Those questions are perhaps even more critical because the students that we are dealing with as individuals and as populations are so much more fragile, so much more fragile, and the cost of failing to do it well is far higher than it is perhaps with any other population in our schools.

I thank you all this morning for being here. I thank you on behalf of the Chairman and Mr. Goodling. You have obviously taken a great deal of time and put a lot of thought into the testimony that you presented here today and how education really can be a benefit to all children. We will want to stay in touch with you throughout the reauthorization process.

I am informed that Dr. Kimbrough was faced with a grounded airplane this morning and so was unable to be with us.

The hearing record will be open for 2 additional weeks for any further submissions. If there is nothing further to come forth this morning, we stand adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned subject to the call of the Chair.]

[Additional material submitted for the record follows:]

NEW MEXICO STATE DEPARTMENT OF EDUCATION RECOMMENDATIONS

RECOMMENDATION #1

We recommend that state and local school districts be allowed to "cluster" or group flow-through programs currently identified under the Hawkins-Stafford Amendment of 1988, which are similar in purpose, structure and operations.

RATIONAL

There are currently forty-five (45) distinct programs within the Hawkins-Stafford amendments of 1988. Each program is governed by program specific regulations, yet all serve virtually the same student. This often results in unneeded competition for a student's time and ignores the whole child. Many of the systemic reform initiatives are attempting to encourage integrated service delivery models to reduce duplication. Unfortunately, schools are much too often stifled by the limitations imposed by current legislation. Flexibility is needed to "cluster" or group programs under a single administrative plan aimed at implementing such systemic reform initiatives at the state and local level. This would encourage states and local creativity in fund allocation and use, reporting, and program evaluation.

RECOMMENDATION #2

We recommend that Congress support the maintenance of separate programs at the federal level to ensure that each program under the Hawkins-Stafford Amendments of 1988 continue to retain their unique characteristics and annual line-item appropriations.

RATIONALE

Each program identified under the Hawkins-Stafford Amendments of 1988, have value as a separate, identifiable programs and this factor must be retained.

RECOMMENDATION #3

We recommend that Congress amend the General Education Provisions Act to provide the authority for states to submit a consolidated plan encompassing "clustered" programs. We also recommend that fiscal accountability be maintained by states and locals for each program included in the cluster.

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RATIONALE

Currently GEPA does not allow for such clustering. If states and locals are allowed the option of clustering program, states and locals should be required to maintain separate fiscal accountability to preserve the integrity of each program clustered.

RECOMMENDATION #4

We recommend that Congress consider the impact of enacting legislation establishing new programs with limited appropriations, particularly as that legislation affects minimum population states such as the state of New Mexico.

RATIONALE

The New Mexico State Department of Education currently participates in several programs with appropriations of $180,000 or less. The administrative requirements for participation in these programs are similar to those with larger appropriations, yet the resources to implement those requirements are lacking.

RECOMMENDATION #5

We recommend that Congress reauthorize programs under the Hawkins-Stafford Amendments which permit flexibility in the pooling of administrative program funds to meet the needs of the state and local school districts.

RATIONALE

Many of the programs under the Hawkins-Stafford Amendments focus on the same student population. Program specific administrative requirements impede New Mexico's desire to initiate integrated service delivery models.

RECOMMENDATION #6

We recommend that Congress consider legislation which supports and promotes finance equalization systems.

RATIONALE

The children of New Mexico and the nation should be afforded fair access and equitable treatment to a free public education. Equitable treatment must include a school finance system that will ensure equal, state-wide distribution of financial resources.

RECOMMENDATION #7

We recommend that Congress ensure equity across all states where the method of appropriations are based on per pupil expenditures.

RATIONALE

The state's allocation of federal funds, in some federal programs, are based on the state's per pupil expenditure. Those states with a higher per pupil expenditure would receive more federal funds in some programs. New Mexico has a low per pupil expenditure (about 43rd in the nation) in comparison to other states.

RECOMMENDATION #8

We recommend that Congress review requirements pertaining to the issues of supplement/supplant and maintenance of effort.

RATIONALE

States who have adopted aggressive policies, statues, or regulations are often penalized for their action under current requirements. Consequently, states who are attempting to further systemic reform or school improvement initiatives should be allowed to seek waivers from these requirements when appropriate.

COMMENTS ON REAUTHORIZATION OF CHAPTER 1

The following comments and recommendations were compiled by Gilbert Martinez, Director, after a meeting of a committee of interested individuals who provided input and from suggestions received by telephone and in writing.

1. Funding and Use of Funds

a. Basic Grant should remain categorical with flexibility for Local Education Agencies (LEAs) or schools requesting waivers to do exemplary-type activities throughout the district or in specific school sites. The waivers would be granted based on the need demonstrated after documented evidence of planning which will still address the needs of the children for whom the program was intended.

The basic grant formula should be changed to 'average national per pupil expenditure' rather than 'state per pupil expenditure'. The change would make the distribution of funds more equitable for states that are having difficulty maintaining a higher per pupil expenditure. Census data should be updated every five years.

b. Concentration Grants should continue with more flexibility on establishing the number of percent of children eligible to be counted in order that an LEA becomes eligible. A more reliable and current basis for establishing'low income' could be the number of children eligible for free and/orreduced lunches.

c. Even Start is a model program which should be funded at a more realistic level. The current method of selecting LEAs to receive funds is acceptable only as long as the funding is limited.

d. Program Improvement funding should continue with additional funds to provide the LEAs with continued incentives to try additional strategies and techniques currently not being attempted because of the lack of funds.

e. Capital Expense funding should continue because of the Aguilar/Felton decision which does not allow public employees to conduct instruction at the private/religiously affiliated site. The additional funds required to provide 'equitable services' should not be taken out of the already limited funds allocated to provide instruction to all participating students. Allowable expense should include computers which are placed in the program serving private school children when separate from the public school participants.

f. Migrant education funds must continue so that Migrant children may continue to receive services which supplement all other available sources. These children are those who, because of the nature of the work performed by their parents or guardians, may not be able to attend school on a regular basis.

g. Innovative project funds (up to 5% of the allocation) have provided LEAs with the opportunity to develop programs which would normally not be approved. These programs include some very innovative practices, particularly those involving parents of children in Chapter 1 programs.

h. Neglected/Delinquent (Institutions and Homes) should remain with the same flexibility.

2. Assurances and Applications

a. State Applications should be submitted by an SEA for the duration of the reauthorization period. An SEA should have the flexibility to submit the application as a cluster including other similar programs or as single applications for each program. The SEAs submitting clusters should contain assurances which demonstrate well-planned, systemic changes affecting the children for which the funds are available.

b. Local Applications should be submitted by LEAs annually with all appropriate data and descriptions necessary for the state to approve or disapprove.

3. Eligible Schools

Targeting of schools as contained in P.L. 100-297 is acceptable because it contains enough flexibility to serve those schools/students considered most in need of assistance.

4. Eligible Students

Students in the greatest need must continue to be the prioritize for services unless the LEA qualifies for school-wide projects or has been granted waivers to upgrade the entire educational program through careful planning.

5. School-wide Projects

a. The seventy-five percent threshold may be changed to a lower percentage of low income. The program accountability should ensure that the needs of the children who would be served in regular Chapter 1 are being met. The planning cycle should occur over a period of time which ensures that the entire school program will be successful, especially for those most in need of special assistance. A carefully developed plan should include how all funds being made available to a school-wide site will be used and a plan for staff development and parent training.

b. In school-wide project sites, maintenance of effort should allow school districts that are undergoing an overall reduction in per pupil spending to reduce the per pupil expenditure in proportion to the overall reduction in funds available to the district.

6. Parent Involvement

Consultation with parents of participating children should continue. Strengthening this component may include that parents be trained to work with the children at school and/or the home. The coordination with adult education and social service programs such as JTPA, ABE or other agencies may be considered so that parents may best be able to help themselves and their children.

7. Participation of Children Enrolled in Private Schools

Aguilar/Felton restrictions, if they are to remain, make it necessary that Capital Expense funds be available.

8. Fiscal Requirements

Separate accounting for the various funding sources should remain.

9. Evaluations

Assessment of Chapter 1 programs should not be limited to norm-referenced testing. States and LEAs should be allowed to support their annual evaluations with alternative assessment measures.

10. Program Improvement

a. Program improvement should always be a priority of LEAs. Mandated program improvement efforts should be in effect only after the LEAs fail to meet State Program Improvement Plan standards or their own desired outcome two years in a row.

b. Program improvement plans should be allowed to align with state school reform if the plans will address the special needs of Chapter 1 participants, even if some waivers are necessary.

c. Program improvement plans should be developed by a team including parents, Chapter 1 and other staff and principals.

11. Early Childhood

a. Transition services using effective practices, community-based services (adult education, literacy, health) a variety of measures for selection, components in school-wide projects, and continuity of programs and services should be more closely coordinated between early childhood and early elementary Chapter 1 and regular programs.

b. Additional discretionary funds for early childhood programs and services should be made available to enhance the National Goal that all children in America will start school ready to learn.

12. Coordination/Collaboration

Chapter 1 should, to the extent feasible, coordinate/collaborate with the various agencies, organizations and others interested in the education of children to ensure maximum utilization of resources and programs.

13. Migrant Education

a. Strengthen legislation identifying the Migrant Student Record Transfer System as the only method for counting migrant students.

b. The parent involvement component should be strengthened to provide more meaningful participation of parents in the education of their children.

c. Include more transition programs for secondary students, such as Mini Corps, which will provide more opportunities for migrant students to achieve higher education.

d. Allow alternative evaluation procedures which will be more appropriate in assessing migrant students.

e. Include students who are migrating on their own in the definition of eligible migrant students'.

CHAPTER 2 - "FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT"

What follows are recommendations prepared by a group of local public and private school administrators, New Mexico State Chapter 2 Advisory Committee members, which are aimed at encouraging our Congressional delegation as they prepare to reauthorize the Chapter 2 program.

We recommended Congress reauthorize the Chapter 2 program to include:

RECOMMENDATION #1

An emphasis on flexibility, reduced administrative burden, and states and local responsibility for the design and implementation of programs.

RATIONALE

The Chapter 2 program is one of the most appreciated federal programs at the state and local level primarily because of the program's flexibility, reduced paperwork burden, and state and locals have the authority to determine the most appropriate use of funds.

RECOMMENDATION #2

Appropriate funding levels to meet the needs of states and local school districts in implementing systemic reform efforts, integrated service delivery models, or effective educational practices.

RATIONALE

During the past six years, excluding program year 1992-93, funding for the Chapter 2 program has experienced continuous cuts which have impacted upon the delivery of programs to New Mexico students. These reductions have seriously affected the types of programs implemented by schools. Many states and locals have been reluctant to implement programs for fear that the funds needed to implement these programs may not exist in subsequent years.

RECOMMENDATION #3

Language calling for advisory committee which is broadly representative of the educational interests and the general public in the state to serve the purposes currently outlined in Chapter 2 legislation.

RATIONALE

The New Mexico Chapter 2 State Advisory Committee has been an effective advisory body representing the broad interests of parents, educators, and the community. Further, the committee has been instrumental in generating local ownership of and public support for Chapter 2 reform initiatives.

RECOMMENDATION #4

We recommend targeted assistance areas:

(1) Which support schoolwide improvements efforts and comprehensive systemic reform initiatives;
(2) Which support the development and implementation of comprehensive service delivery models;
(3) Which support the delivery of instructional programs through the acquisition of educational materials, computer hardware, and other curricular materials that would be used to improve the quality of the delivered curriculum;
(4) Which support the planning, development, implementation, and evaluation of comprehensive programs of training and professional development which enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, administrators and school board members; and
(5) Which support the design, development, implementation, and evaluation of programs designed to enhance personal excellence of students and student achievement as defined by states and local school districts.

RATIONALE

Chapter 2 should continue to support a variety of initiatives at the state and local level. These initiatives, however, need to be supported by adequate planning and input from those parties responsible for the implementation. Chapter 2 cannot continue to support piecemeal efforts which do not impact upon systemic reform efforts, integrated service delivery models, or effective educational practices.

RECOMMENDATION #5

Language permitting states and locals the option of consolidating Chapter 2 with other federal programs under a single administrative plan for the purpose of integrating services should be permitted.

RATIONALE

In attempting to educate the "whole" child, the educational program should consist of an articulated program requiring coordination, collaboration, and the pooling of resources in order for the program to be effective.

Stewart B. McKinney Homeless Assistance Act

RECOMMENDATION

Increase the state minimum to $90,000 to allow states to fully implement the requirements in the law.

RATIONALE

Currently the allocation to minimum population states is $50,000. Regardless of whether a state is a minimum population state or not, a state may only use up to 5 percent of its allocation, or $50,000, or which ever is greater, for administrative purposes outlined in the law. With the increase in administrative requirements it has become extremely difficult to fully comply with these requirements with such a minimal amount of funds.

RECOMMENDATION

Increase the appropriation to an adequate level which will assist in addressing the critical educational needs of homeless children.

RATIONALE

In a survey conducted by the State Department of Education in 1991 it was determined that there are approximately 2,038 homeless children in our public schools. During the current year the State of New Mexico received $180,000, $50,000 for administration and the remainder to be used to provide grants to local school district. This appropriation translates to $63.79 per student to address the tutorial, counseling, transportation, clothing, and a multitude of other critical needs of these children.

RECOMMENDATION

Allow each state to have discretion in determining the best use of funds.

RATIONALE

Legislation currently mandates that local school district use 50 percent of its allocation for primary services and 50 percent for secondary services. In many instances the funds available to local school district could be better utilized to employ an individual to coordinate the resources available within a community and to provide transportation services to this population so that they may be able access service. This is but one example of how these funds could be better utilized to local decision making is allowed.

TITLE VII, ESEA, Bilingual Education Act

Mary Jean Habermann, Director

In the state of New Mexico, Hispanic and Native American students have participated in Title VII, ESEA, Bilingual Education since 1969. The law has traditionally served those students in need of such services. This focus in the law requires a precise identification of need in terms of language and concepts development. With this focus the program gives students full opportunity to develop expert skills and competence in the English language. Equally important is that concept development continue uninterrupted while students acquire English.

A focus on language to meet these two purposes means using the language of the home as a teaching medium for the curriculum and providing linguistic services in that language to achieve curriculum intent. It is imperative that literacy in the home language be developed since skills transfer regardless of language.

The English language must be taught specifically with emphasis on linguistic development appropriate to and for the curriculum as well as in the areas of understanding , speaking, reading and writing. Of paramount importance is that there be sequence and continuity across grade levels and use of methods and materials for second language learners.

If the above purposes are to be served well in reauthorizing the Title VII, ESEA, Bilingual Education Act, the following concepts must be explicit in the law.

1. The categorical discretionary grant nature of Title VII must be preserved because it allows the program the specificity needed to accomplish its goals and objectives.

2. Statutory guidance gives schools the parameters to define and refine program elements based in the need. Districts have full flexibility to design and implement the program according to the need and resources available to them.

3. The 3-5 year participation limit present in the current law needs to be extended. Empirical evidence gathered from a wide variety of programs indicates that it takes 5-7 years in bilingual education programs to achieve academic competence in all subject areas on par with native English speaking students.

4. Current emphasis in the law focuses on the "deficits" or "limitations" of students in English. Yet, students have language available to them to accomplish learning. The program needs to capitalize on the learning strengths students have, rather than emphasize their deficits. This will give students an equal opportunity to master the concepts of the curriculum.

5. Programs of developmental bilingual education give students the opportunity to master English and another language. This type of program, termed two-way bilingual education, enables both English and non-English language-background students to achieve bilingualism. This serves as an efficient vehicle for promoting multiple language competence among all students on a broad scale.

INDIAN EDUCATION

AIPC EDUCATION RECOMMENDATIONS

INTRODUCTION

Many studies have been conducted, like the Meriem Report, Kennedy Report and the Nations At Risk Report Without any actions to address these identified issues. Finally this year a National White House Conference on Indian Education was held that culminated all the concerns and issues that were previously identified in the various studies. This conference again identified specific areas of concerns and made recommendations of how to address these issues.

New Mexico also held its own White House Conference on Indian Education and also identified local concerns and made recommendations to the National Conference. The All Indian Pueblo Council Education Committee also held a education symposium that developed resolutions to the key area identified in the New Mexico White House Conference.

RECOMMENDATION ON EDUCATION

For a National recommendation the Final White House Conference on Indian Education (May 1992) should be reviewed by the Clinton Administration. For local recommendation the following is taken from the New Mexico White House Conference on Indian Education Report 1991 and resolutions passed by the All Indian Pueblo Council.

NEW MEXICO WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

A state steering committee was created, representing various tribes and interest groups as well as different levels of Indian Education in New Mexico. To facilitate working sessions during the state conference, the steering committee identified the following main areas of concern:

1. Early Childhood Development
2. Public School Programs
3. BIA Schools, Contract and Private Independent Schools
4. Educational Organizations, Boards of Education and Tribal Organizations.
5. Post Secondary Programs: 2 & 4 programs, Vocational and Adult Education

Early Childhood Programs

- Indian communities must receive assistance in assessing local needs, resources for funding, and development of programs to meet the needs of young children.

- In reference to P.L. 100-297, provisions must be included to assure safe facilities, forward funding and additional transportation needs.

- Eligibility criteria for early childhood programs must be changed to state that services will be provided for all Indian children.

Public School Programs

- A more uniform system of forms, guidelines, requirements, etc. must be developed in consultation/cooperation with programs (funding) sources and the local programs (or through Technical Assistance Centers).

- The "Indian Education Act of 1988" should be amended to make provisions for carry funds for planned projects. There must also be timely response to proposals and notification of grantees.

- Any federal Indian program, from any department, must provide for direct funding from the provider to the LEA or eligible organization.

BIA, Contracts & Private Schools

- The Secretary of Education must explore the feasibility of consolidating and administering all federal funds designed for Indian education under the Office of Indian Education. Programs application approval, program monitoring and regulatory changes need to be the responsibility of the OIE Director.

- OIEP and OIE must fully implement P.L. 93-638, P.L. 100-297, and P.L. 95-561.

- Tribal Organizations, Indian Education Organizations and Boards of Education

- Adequate funding at all levels based on local identified needs assessments

- Amendments of all laws to properly address the true needs of the tribe.

- Funding to develop local education department and development of local comprehensive education plans.

- Funding to address all the identified construction needs and the BIA facilities management program should be redesigned to meet the construction needs of the tribes.

- Development and implement native language and culture program

- Appropriate funding for scholarship programs and amend Higher Education acts to allow for funding all Indian students for graduate and under-graduate programs.

- Standard formulas for funding throughout Indian education programs, (JOM, Title V, Headstart, etc.)

- Federal funding should flow through tribal governments.

Tribal Organizations, Indian Education Organizations and Boards of Education

- Local school districts, state legislatures, and the Congress must fund Indian education at adequate levels.

- A mechanism must be developed by which tribal community needs can be addressed from a holistic perspective. The present system perpetuates problems through the fragmentation of funding patterns and resources. The present system promotes instability and prevents long range development.

Post Secondary Programs

- The financial aid process must be revised: Increase the base amount of PELL and other grants and scholarships, minimize family/student contributions and allow tribes to cover this contribution, remove any federal tax on tribal scholarships and possibly device a formula for more equitable distribution of funds.

- Establish funds for profession development beyond the undergraduate level.

Conclusion

These are a few recommendations, but to properly address the needs The New Mexico White House Conference on Indian education should be reviewed by whom ever is appointed to look out for the educational needs of Indian Children.

ADULT BASIC EDUCATION

In an effort to promote Adult Basic Education, the following appear to be priority issues and concerns of ABE projects and personnel throughout the state.

1. Funding

As more initiatives are required at the federal and state level, adequate or proportional funding increases must be provided to accomplish these. Otherwise fragmentation of services is possible or the undermining of the integrity, quality and ability of ABE programs to provide services could occur.

2. Professionalism

Since the majority of populations served by ABE are non-traditional types of students, it would seem prudent to keep Adult Basic Education under the direction and auspices of the Department of Education where it has proven its worth and ability to deliver positive results and serve those in need.

3. Collaboration, Cooperation, Partnership

The "burro" must be prodded or removed from bureaucracy, so that, joint powers agreements can be reached with other services entities such as: Health and Human Services, Department of Labor, Public Housing Authority, etc. These agreements must attempt to afford those in need equal and accessible opportunity for an education, cost sharing of educational and training services, eliminate duplication of effort, and provide needed support services (transportation, child care, etc.), thus trying to assure that every New Mexican has an equal and as obstacle a free an opportunity, as possible, for an education. Let each entity give priority to their qualitative and quantitative expertise: education to train and educate, labor to employ and provide economic growth, health and housing to afford the basic needs in time of need, so that, collaboration, cooperation and partnership, in the true sense of the words, can be achieved.

4. There is a growing concern with the measurement, evaluation and assessment requirements which provide information in terms of quality indicators,

learner gains or whatever other synonymous jargon we use. Although we realize their importance and value, we must not forget this population is nontraditional and has great anxiety, frustration and fear of these processes. In many instances gain or growth will appear in areas, difficult if not impossible to measure, such as: a positive attitude towards education, growth in self-confidence and assertiveness, experience success, positive self-esteem and worth, to name a few. Yet, in many instances, these are as important if not more, than measurable cognitive skills, concepts or processes. Realizing ideally, that the two go hand in hand, but not necessarily.

As a member and current President of NMAEA (New Mexico Adult Education Association), and serving as a sounding board for our organization, the following is a synthesis of issues and concerns.

1. Professional Development

The preparation and continuation of strong leadership in our professional organization is of the utmost importance. But this implies the continuation of adequate funding to accomplish this goal.

In addition, we must strive to keep our administrators, faculty, staff and volunteers trained, and re-trained and up-graded with state-of-the-art experts, knowledge, techniques and technology to provide quality and timely education to the populations we serve.

2. Actively and Aggressively Legislate

As a professional organization, we must communicate with our lawmakers to affirm and support those laws which have a positive effect on Adult Basic Education and mitigate or negate those laws which impact negatively on Adult Basic Education.

Bearing in mind, that these efforts must be three pronged, to include: national, state and local lawmakers and laws.

With the goal of helping to prepare better citizens through Adult Basic Education, the populations we serve must also be informed on the positive and negative impact of laws and lawmakers, because after all is said and done, they are part of will be part of the constituency you serve.

3. Active Participation

We would extend an open and cordial invitation to all lawmakers and officials to attend our regional and state conferences, workshops, etc. to afford you and us an opportunity to dialogue and better understand each other.

We would encourage and be honored to have you attend our graduation ceremonies and other activities to see first hand the fruits of our and your efforts on the faces and spirits of our graduates and their families.

COMMENTS REGARDING THE DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT REAUTHORIZATION

These comments are divided into two sections: Section I provides basic information about the Eisenhower Program in New Mexico and includes comments prepared by the State K-12 Coordinator, Claire J. Fenton. Section II provides a summary of comments specific to Eisenhower Reauthorization from LEA and Higher Education Institutions throughout the state.

SECTION I

K-12 FLOW-THROUGH FUNDS

All 88 New Mexico school districts have chosen to participate in the Eisenhower program. The 1992-93 flow-through dollars total $1,110,463; a chart showing the allocation per district is attached. In addition, the State Department of Education receives $123,384, half of which is used for program assistance, administration and review, and half for various demonstration and exemplary programs. These two categories (the K-12 flow-through and the SDE portion) comprise 75% of New Mexico's annual Eisenhower allocation. The other 25% flows to the Commission on Higher Education, and is let out to institutions of higher education on a competitive basis.

The K-12 Eisenhower portion which flows to school districts has become an integral part of teacher staff development in math and science. The national focus on reform and improvement of the teaching and learning of math and science has resulted in an increasing number of opportunities for staff development. New Mexico school districts have grown much more adept at taking advantage of these opportunities. There is usually a waiting list for participation in the best of these in-service activities, and district staff are doing better planning to provide follow-up for teachers involved. The assertion by some that the Eisenhower dollars do not provide for long-term impact and thus are not effective fails to take into account the planning which districts do from year to year. The impact of the Eisenhower dollars is cumulative, the local district personnel are able to identify the strengths and needs of its staff and students and to develop in-service programs which build on previous activities. Each district must do program planning needs assessments and follow-up evaluations. These evaluations indicate that, particularly at the elementary level, teachers are learning more math and science and are gaining greater confidence and motivation to try a variety of strategies with students. The general model which prevails is for districts to support the attendance of lead teachers, elementary through secondary, at summer workshops, and then to support these same teachers during the school year as they provide further training to additional staff. These teachers also provide building and district leadership for such activities as curriculum revision. The local option nature of the Eisenhower dollars allows school districts to plan ahead, to develop long-range change activities in math and science and to address specific community needs.

DEMONSTRATION AND EXEMPLARY PROGRAMS

The Demonstration and Exemplary Program funds which are administered by the State Department of Education and used to support special teacher training projects. Examples of past activities supported include:

- A cooperative activity with the SWOOPE (Students Watching Over Our Planet Earth) Project of the Department of Energy which involved training 45, K-9 teachers, in techniques of assessing water quality and in the appropriate use in the classroom.

- A retreat for high school department chairs which focused on current issues in mathematics and on providing leadership in the school and districts. This retreat was partially supported by the Math Learning Center of Portland, Oregon, and had five math teachers from Mexico in attendance.

These funds allow SDE to initiate and support activities which are beyond the scope of individual districts, but which address needs of special groups and which allow New Mexico teachers to take advantage of local, state and national resources.

ADDITIONAL COMMENTS REGARDING REAUTHORIZATION

It is inappropriate to require that all higher education funds be spend on in-service of 20 days or more. This requirement limits the number of teachers that can participate. Few New Mexico teachers are able to leave the classroom that many days during the school year, and few can make a four-week commitment during the summer. The focus on implementing long-term change should be seen in terms of effective utilization of all the resources available to the teacher over a period of time longer than one year.

A major impediment to implementing better math and science teaching practices is the lack of classroom equipment, student supplies and current technology platforms in the school districts. The Eisenhower program allows for purchase of training materials, but not classroom materials. This restriction is appropriate, but additional legislation needs to address the issue of science laboratories and equipment, of computers, software, calculators and "hands-on" supplies in general. In New Mexico, we have placed many of these items on our instructional materials list, so that districts can use state funds to purchase them. However, great needs exist for these items as well as for expertise in developing long-range plans for technology in the schools.

SECTION II

The following comprise the comments most often submitted by the New Mexico teachers and administrators about the Eisenhower Program. These comments were submitted during December, 1992, to the State Department of Education.

- These funds provide the major source for improvement of math and science instruction and have resulted in a cumulative, long-term impact on teachers expertise, strategies employed and student interest in math and science.

- The major change requested is to allow greater flexibility in the purchase of math and science materials for the classroom as a follow-up to training. It is difficult for teachers to practice and perfect what they have learned in training without continued access to the new materials, equipment and technologies introduced during inservice.

- The majority of respondents urge that the Eisenhower Program, with the exception described above, continue essentially as is. They like the flow-through nature of the funds which provides the ability to apply funds to meet local district and even building needs. They felt that small districts should be maintained. Nearly all comments indicated support for the emphasis on K-8, although one person said that this was a difficult provision to meet. Several respondents would like to see Demonstration and Exemplary Funds increased, although definitely not at the expense of flow-through dollars.

Comments specific to the higher education portion of Eisenhower included the following:

- The activities supported with these funds are an important source of staff development for teachers and provide needed interaction with the higher education community.

- Most respondents would like to see a greater emphasis on pre-service, as opposed to in-service, for math and science teachers.

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BORDER ISSUES

EXECUTIVE SUMMARY
SUMMARY OF HOUSE MEMORIAL 8

House Memorial 8 requests that the State Board of Education (SBE), along with school district personnel and other interested parties, study the impact of border development on New Mexico public schools. Specifically, the Memorial requests that the Board study the effects of population growth and the concomitant need for additional capital outlay, specialized instructional programs and materials, and specialized professional staff.

HIGHLIGHTS OF AND CONCLUSIONS FROM THE STUDY

Highlights and conclusions from the study include the following:

—In conducting the study, the State Department of Education staff worked with the State Board of Education, the Governor's staff, other state and local officials, and various legislative committees.

—The SDE, through the results of a questionnaire, completed a case study of eight school districts along or near the border. Results of the questionnaire were as follows:

> * Of the 8 districts, 4 are experiencing substantial growth and that growth is primarily from new students from Mexico (Gadsden, Las Cruces, Hatch, and Deming).
>
> * Of the 8 districts, 1 is growing primarily from students from other parts of New Mexico or the U.S. (T or C).
>
> * Of the 8 districts, 3 are as yet not much affected by substantial growth (Silver City, Carlsbad, and Alamogordo).
>
> * While growing districts cite needs in the areas of instructional materials and capital outlay, district staff express more concern about programmatic issues such as the need for additional compensatory programs and specialized staff and for designing curricular to assist children.
>
> * Districts' staffs are deeply concerned about alternative methods for preparing licensed bilingual and ESL teachers and stress the need for professional development for current staff who must address the needs of children with a variety of problems and needs.
>
> * School district personnel consistently reported the necessity of collaboration with other community resources (health, social services,

Adopted by the New Mexico State Board of Education on 12/1/92

Resolution

WHEREAS the New Mexico State Board of Education is concerned about the effect on public schools of population growth along the border of New Mexico and Mexico and its impact on the need for additional capital outlay, specialized instructional programs and materials, and specialized professional staff; and

WHEREAS the State Board of Education has consistently upheld a student's right to an education under Section 22-12-4.A of state statute which indicates that ". . . any school age person shall have a right to attend public school within the school district in which he resides or is present;and

WHEREAS population growth, economic development, and certain national policies combine to create opportunities and problems that affect most aspects of community life, including education; and

WHEREAS implementation of the Free Trade Agreement will have an additional impact on further growth along the border; and

WHEREAS the effect of border development on the public schools is a complex issue and cannot be dealt with in isolation; and

WHEREAS the local school districts are not adequately funded for students not residing in the district; therefore

BE IT RESOLVED THAT THE STATE BOARD OF EDUCATION
request that the state's congressional delegation, representatives from the Governor's office, and other appropriate officials work collaboratively with the Mexican government to develop agreements and policies regarding border development which will have an impact on education.

BE IT FURTHER RESOLVED that the State Board of Education encourage the congressional delegation to secure financial assistance from the federal government to address the challenges to education of growth along the border which are not within the resources of the border school districts or the State Department of Education.

economic development agencies, and others) to provide services to children. They recognize that the schools alone cannot meet the needs. Also, the four districts have been growing for several years; therefore, it is not growth itself which is a problem. It is the nature of the growth in the 4 districts which makes it essential for educators and others to work with children who enter the system with an array of needs.

RECOMMENDATIONS

In view of the case studies and other information collected by State Department of Education staff, the SDE recommends the following:

—that the issue of population growth along the border and its impact on public schools be addressed within the broad context of the State's Master Plan for border issues with several appropriate agencies and institutions working together on the highly complex and inter-related challenges.

—that university personnel be included in the development of the Master Plan and that they be encouraged to pursue research efforts which will assist in the development of long range and short range goals for addressing border issues.

—that the state's congressional delegation, representatives from the Governor's office, and other appropriate state and local level representatives work collaboratively with the Mexican government to develop agreements and policies regarding education, the environment, industrial development, etc.

—that discussions between state and federal level policy makers be encouraged regarding possible assistance from the federal government in addressing the challenges of growth along the border and the impact of the Free Trade Agreement.

—that school districts form consortia to share instructional materials and other resources, to apply for federal funds and other funds to address issues such as capital outlay, professional development, bilingual licensure, etc., and to take advantage of existing resources such as planning and research efforts at universities within or near their communities.

—that the human issues associated with growth not be overlooked because those issues challenge our abilities as educators to develop programs, cooperative agreements with other agencies, and strategies necessary to help children.

AGENCY BILL ANALYSIS
Section I: General Information

Draft XXX Date: 12/17/92

BILL IDENTIFICATION

Senate Memorial on Border Growth

Reviewing Agency State Department of Education

Person/Analyst Susan Brown Date: 12/17/92 Phone: 827-3876

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1. Bill Summary

a) Synopsis

This memorial requests that New Mexico congressional delegation seek federal assistance for New Mexico to assist in addressing the needs of students along the border.

b) Significant issues

The significant issues associated with this Memorial are:
1) the need for federal funds to assist school districts in addressing growth along the New Mexico/Mexico border which affect the educational and welfare needs of children, growth which will probably accelerate due to the free trade agreement; 2) the need for assistance from New Mexico's congressional delegation in negotiating with the Mexican government agreements and policies regarding education and welfare of children along the border.

2. Fiscal Impact

Should the congressional delegation be successful in appropriating federal funds to address growth along the border, the state's revenues will increase, as will the budgets of the school districts receiving grants.

3. Administrative Impact

Should federal funds become available, it is likely that the Department of Education and other state agencies will have the responsibility of administering the funds. Specific policies and agreements between the two governments could also have an administrative impact.

4. Alternatives

One alternative is for the state to continue to fund the additional needs of students along the border with the resources of the state. According to school district personnel affected, state funds are not adequate to meet the needs of many of these children who often bring with them educational, social service, and health needs.

5. What will be the consequences of not enacting the Memorial?

School districts may not receive federal financial assistance in addressing the needs of children along the border. In addition, agreements between the two governments will be difficult since the growth along the border is an international issue, not just a state issue.

CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT OF 1990

Reauthorization Considerations

The Carl D. Perkins Vocational and Applied Technology Education Act has created a number of concerns in providing quality Vocational programs for all New Mexicans. A major concern is that this act was developed as a piece of social legislation that often restricts the ability of the state and subsequent institutions and LEAs from developing quality programs that can then be available to all students. By requiring expenditures on supportive services to "Special Populations" funds are not available to maintain up-to-date training materials and equipment to meet the every changing industry standards. By requiring categorization of funds into specific set asides the intent of the act of integrating vocational and academic skill development is greatly hampered. Elements such as limiting use of equipment to Vocational students only hampers efforts to integrate services and programs across the educational spectrum. A concern with this act, as well as many other pieces of educational legislation, is that it sets not only goals and outcomes that are important, but it sets the process by which states are expected to follow to reach those goals and objectives. These processes are developed on the needs and situations that occur in large metropolitan or densely populated states. These processes do not take into consideration the reality of the rural states. The Act also requires that coordination occur with the JOBs Act, the JOBs Training Partnership Act and others, while at the same time restricting the utilization of the dollars by the previously mentioned set asides and social mandates, which restrict the ability to develop and provide integrated educational service delivery.

DRUG-FREE SCHOOLS AND COMMUNITIES ACT
REAUTHORIZATION ISSUES

1. Small school districts should be provided a minimum allocation to allow opportunity to develop effective programs. This could be accomplished through a funding incentive to join a consortium or by a guaranteed base figure. Ten districts in New Mexico receive under $1,500.00 annually.

2. The Drug-Free Schools Discretionary Grants should be administered by the states instead of directly by the federal government. The present system fragments the development of a comprehensive statewide drug prevention program in the schools. States should receive, either through the education portion or the Governor's portion of Drug-Free Schools, allocations for the discretionary grants. The states should determine the recipients and otherwise administer the funds. The Emergency Grant and the School Personnel Training Grant are the most valuable.

3. Eligible applicants for the Emergency Grant should include consortia of LEAs and should not be linked to Chapter 1 Low Income Concentration Grants. Low income areas are not the only ones with significant drug and alcohol problems. In addition, the designation of a community as eligible for the Low Income Concentration Grants is notoriously behind local conditions. Some examples of New Mexico communities that are not now designated as low income areas include: Questa, Farmington, Cuba, Dulce, Pojoaque and Silver City. All of these areas have significant drug and alcohol problems, yet they are not eligible to apply for the Drug-Free Schools Emergency Grant.

4. Allow the states to decide which agency of state government should administer the Drug-Free Schools and Communities Program. If a state finds it desirable to administer the program through a substance abuse prevention agency or department for issues concerning children and youth, it should be allowed to do so. This is currently permitted, but there will be efforts to amend the act to require that only the SEA may administer its share of the program.

5. In general, funding of the national drug control efforts are seriously out of balance. Funding of supply side reduction programs and demand side reduction programs should be equalized. Currently the supply side (law enforcement, interdiction and military programs) receives sixty eight percent of drug control funding while the demand side (prevention and treatment programs) receive only thirty two percent. The Drug-Free Schools and Communities Program has not had a funding increase since 1990, and will have a cut in 1993.

COMMITTEE ON EDUCATION AND LABOR
U.S. House of Representatives
Subcommittee on Elementary, Secondary and Vocational Education

TESTIMONY
National Alliance of Black School Educations

Submitted by
Rex Fortune, Ph.D., Legislative Chairperson

Chairman Kildee, Chairman Ford and other honorable members of the Committee, I respectfully submit this testimony for the record of the hearings regarding the reauthorization of the Elementary and Secondary Education Act and related acts. I might add that this testimony amplifies and underscores the written recommendations to the Committee submitted, in response to its requests for comments, prior to December 1, 1992 under the signature of Mr. Ted Kimbrough, President of the National Alliance of Black School Educators.

This testimony address several topics and their respective statutory reference. Each topic will be introduced on a separate page, in case there is a need to have different members consider specific topics. Let me simply comment here that we certainly appreciate the opportunity to have our recommendations given serious consideration. We can arrange to have ~~a~~ one or more representativeS appear before the Committee to discuss these suggestions, if it would be helpful to the Committee.

Rex Fortune, Ph.D.
Superintendent
Center Unified School District
8408 Watt Avenue
Elverta, CA 95626

TITLE II-CRITICAL SKILLS IMPROVEMENT PART A
DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE ACT

Sec. 20004 Allocation of Funds
(a) In general (1) From the amount appropriated under 20003(b) for any fiscal year, the Secretary shall reserve --(A), (B), (C) 4 percent for Section 2012.

The thrust of our recommendation is to have the Secretary use 2.5% of the funds authorized in Sec.20004(b) (C) to establish regional Teacher Pipeline Centers which would implement both short term and long-ranged programs to develop and facilitate the employment of well-prepared, American teachers and professors of science, mathematics and technology (not limited to, but certainly including computer science technology). A strong focus of these centers will be to identify and assist with the preparations of individuals from minority groups, traditionally underrepresented in the scientific fields.

These Teacher Pipeline Centers would support and enhance longitudinal teacher preparation programs which would not duplicate the many excellent Eisenhower National programs already in place such as; the National Research Council's work to establish curriculum standards; the OERI efforts to establish State Curriculum Frameworks in Mathematics and Science; The Research and Development Centers in Wisconsin, Pittsburgh, Santa Cruz and Michigan; the Clearinghouse for Mathematics and Science Education at Ohio State University; the "Regional Consortiums;" the National Diffusion Network or the Regional Laboratories. Naturally, this recommendation to establish Teacher Pipeline Centers should take into account the use of products or consultant services which are or will be available through these institutions.

The need for a direct approach to the development of more minority teachers of science, mathematics and technology is in evidence by the fact that such teachers make up only about 18% generally of the current elementary and secondary teacher-force in the nation. The pipeline for future science or mathematics seems to only have a trickle flowing through. For example, in 1983 9% of full-time freshmen planning to major in science or engineering were black; 6 years later, only 5% bachelor's degree recipients in these fields were black.(1) It is no surprise that at decade's end, African-Americans received only 2% (264) of the more than 13,600 Ph.D's in science and engineering awarded to U.S. citizens in 1990.(2) This speaks to the shortage of college and university professors of science and mathematics. In the United States there were in 1992 366 U.S. doctorate-granting institutions, 133 of which issued no doctorates to minority students in 1991. Of the 149 institutions that awarded Ph.D's to African-Americans only six granted 10 or more degrees. Only eight of the 151 universities that awarded science or engineering Ph.D's to Latino granted 10 or more degrees. And only 45 institutions awarded even one doctorate degree in these fields to a Native American.(3)

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In California, where the percentages of elementary and secondary teachers are similar to the national numbers, the percentage of minority teachers (of all subjects) declined from 22% in 1985 to 18% in 1991(4), while the minority student population increased from 49% in 1985 to 55% in 1991. Again an examination of the number to teacher candidates in the pipeline or recommended to the California Teacher Commission for credentials shows that from July 1989 to June 1990 there were 10 or 2.5% Native Americans in science and 2.5% in mathematics; 15 or 3.8% African Americans in science and 13 or 4.1% in mathematics; and 7 or 1.8% Mexican Americans in science and 14 or 4.5% in mathematics. The point made here is that, left to market forces and all other federal and state efforts to date, the proportions of minority science and mathematics teachers will be abysmally low.

As of this writing, the one, partially funded PIPELINE center currently in operation will have 35 employable minority teachers of science and mathematics ready by September 1993. We believe that this number compares very favorably with the total, in 1990, of 67 Native American, African American and Mexican American candidates that were prepared by the 19 campuses of the California State University System, the state's major producer of elementary and secondary teachers. Again, National Regional Pipeline Teacher Centers, would be established under this recommendation to provide longitudinal support beginning with students in upper elementary school and continuing with them through the teacher preparation program. This approach of identifying students interested in the sciences and mathematics early and nurturing them with a variety of learning experiences, including voluntary school on Saturdays, will produce teachers of science, mathematics and technology in far greater numbers than will occur through existing Eisenhower programs, especially since most of them were not specifically established to address this problem in such a direct fashion.

We believe that this recommendation addresses the Governors' Conference which produced national goals a few years ago:
By the year 2000:

- students in grades 4,8, & 12 will demonstrate competency in mathematics, science...
- the U.S. students will be first in the world in mathematics and science

We further believe that if there will be 3 workers for every 17 retired persons by the end of the century, one woman, one white male and one minority, as some assert; we need to assure that all three are ready, willing and able to compete in the highly technological and global workplace. Much of our ability to do this as a nation rest with the quality, commitment and effectiveness of upcoming elementary, secondary and post-secondary teachers, especially in core curriculum subjects like science and mathematics. We, therefore, urge your support of this recommendation.

REFERENCES:

(1) National Science Foundation, "Blacks in Undergraduate Science and Engineering Education" (Washington, D.C.: National Science Foundation, 1992), 24.

(2) National Science Foundation, "Science and Engineering Doctorates: 1960-1990" (Washington,D.C.: national Science Foundation, 1991), 86.

(3) Unpublished data from the 1991 National Research Council Survey of Earned Doctorates.

(4) Report of the California Commission on the Teaching Profession "Who Will Teach Our Children?" (1985).

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Career Counseling and School to Work Transition*

by

William Julius Wilson
University of Chicago

One of the problems facing students attending public high schools in cities like Chicago is that career counseling is provided mainly by guidance counselors. However, because the education of guidance counselors focuses on behavioral science, they tend to have had little exposure to and knowledge of businesses and careers outside of education. They also lack information on the kinds of credentials necessary to acquire them, and on present and future labor market requirements. And currently there are few resources to which these guidance counselors can turn to fill this gap in their knowledge and background.

Preliminary results from the research that we are now conducting in an inner-city high school, as part of a program to address the problem of career counseling, reveal that guidance counselors neither have the time, informational materials, nor the training to provide students with effective career counseling.

Many of the students themselves are fully aware that they are at a disadvantage and express considerable anxiety about their career prospects. Personally, I believe that these concerns, which realistically reflect the weak connection between their schooling and post-school employment, may reduce their enthusiasm for and commitment to learning.

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*Remarks at the Economic Conference of the President-elect and Vice President-elect, Little Rock, Arkansas, December 14, 1992.

What can be done to address this problem? Our program is emphasizing two simple and relatively inexpensive solutions.

1) Place in each high school a small, but sufficient, number of individuals who might be called specialized career counselors, as distinct from the current guidance counselors--specialized both in terms of their training and background and their specific responsibilities in the school.

These specialized career counselors would work with students from their freshman through their senior years and provide them with high-quality information about career and educational opportunities, and how they can and should use their high school experience to prepare for these opportunities.

2) Place in each public school system individuals who would prepare and annually update a report, submitted to the Superintendent of Schools, on the city's labor market needs and the quality of post-secondary institutions--both academic and vocational. This report would be made available to all specialized career counselors for use in planning the careers of their students.

To repeat, these proposals would be easy to implement and would be relatively inexpensive. I think that they would help to ease the transition from school to work and from school to post-secondary education.

HEARING ON H.R. 6: NATIONAL ASSOCIATION TESTIMONY

THURSDAY, MARCH 18, 1993

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., Room 2175, Rayburn House Office Building, Hon. Dale E. Kildee, Chairman, presiding.

Members present: Representatives Kildee, Sawyer, Owens, Reed, Becerra, Green, English, Payne, Goodling, Gunderson, Molinari, and Cunningham.

Staff present: Susan Wilhelm, staff director; Jeff McFarland, legislative counsel; Tom Kelley, legislative associate; Margaret Kajeckas, legislative associate; Jack Jennings, education counsel, full committee; Diane Stark, legislative specialist, full committee; Andy Hartman, minority education coordinator; Jane Baird, minority education counsel; and Lynn Selmser, minority professional staff member.

Chairman Kildee. The subcommittee meets this morning for the seventh hearing in a series on the reauthorization of the Elementary and Secondary Education Act. Today we will hear recommendations for how K-12 education can be improved from witnesses representing educational organizations and delivery systems.

Today's witnesses are Mr. Michael Casserly, executive director of the Council of Great City Schools; Sister Lourdes Sheehan, Secretary of Education, U.S. Catholic Conference; Ms. Brenda Welburn, deputy director, National Association of State Boards of Education; and Dr. E. Robert Stephens, National Rural Education Association—if they would step forth to the table here and take their respective places.

I am in a position of knowing all of you, many of you very, very well. All of you have certainly established your reputation of serving the children of this country in a very, very meaningful and effective way. So we certainly welcome all our witnesses who have demonstrated time and time again their concern for the children of this country.

[The prepared statement of Mr. Payne follows:]

STATEMENT OF HON. DONALD M. PAYNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. Chairman, let me commend you for calling this hearing that will provide us with an opportunity to hear from some of the national educational associations.

Also, Mr. Chairman, I have been working with the Council of Great City Schools and earlier this month I reintroduced along with Congressman Jefferson, the Urban Schools of America Act of 1993, better known as the USA Act. Many of you are already familiar with this measure that seeks to provide financial assistance to eligible local educational agencies to improve urban education. I have just started getting co-sponsors and I look forward to getting support from this subcommittee.

Chairman KILDEE. Mr. Goodling is in the other room, he will be right out, and we will let him make a statement whenever he wishes.

Michael, you are our first lead-off witness here.

STATEMENTS OF MICHAEL CASSERLY, EXECUTIVE DIRECTOR, COUNCIL OF THE GREAT CITY SCHOOLS, WASHINGTON, DC; SISTER LOURDES SHEEHAN, RSM, U.S. CATHOLIC CONFERENCE, WASHINGTON, DC; BRENDA WELBURN, DEPUTY DIRECTOR, NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION, ALEXANDRIA, VIRGINIA; AND E. ROBERT STEPHENS, NATIONAL RURAL EDUCATION ASSOCIATION, BURTONSVILLE, MARYLAND

Mr. CASSERLY. Thank you very much, Mr. Chairman.

My name is Michael Casserly. I am executive director of the Council of the Great City Schools. I am pleased to be before the subcommittee this morning on behalf of the Council to testify on the reauthorization of ESEA. The Council applauds your leadership and the leadership of Mr. Goodling in conducting these hearings and working to improve the education of our Nation's children.

Mr. Chairman, we have supplied the committee a comprehensive package of recommendations on the reauthorization of ESEA, and I will restrict my remarks this morning to summarizing our proposals. Before I continue though, I would like to take a moment to describe some of the impact of the last reauthorization of ESEA on urban schools. Much of that reauthorization was devoted to issues of targeting, flexibility, and accountability, issues that are again in the forefront of this reauthorization along with others. I think you have heard throughout these hearings that Congress took the right first steps in the last reauthorization on those issues but that almost all of us are ready to go considerably further this time.

The retargeting of Federal education programs in the last reauthorization and the additional investments since then have been real. Those extra dollars in the other reform efforts being made in city schools are having an effect. Nearly 70 percent of the Great City School Districts experienced increases in their standardized reading and math achievement scores across all elementary grade levels since the last reauthorization. In addition, the median four-year dropout rate declined from 32.1 percent in our districts to 26.1 percent over the same time, a drop of 18.7 percent in dropouts.

Urban schools are making strides in reforming their districts and down-sizing their administrative staffs and developing programming to address the incredible needs that the urban children bring to us every day. But, Mr. Chairman, we need to underscore the fact that this Nation is getting what it is paying for in urban education.

The average per-pupil expenditure in large, urban, public school districts was about $5,200 in 1990-91 compared with $6,073 in suburban public school districts surrounding our cities. The $873 extra for each suburban child amounts to about $22,000 over the course of a year for a class of 25 students.

Mr. Chairman, many of our urban schools are at the point of financial desperation and are fighting simply to keep our doors open. The help of the Federal Government becomes extremely important in this context, especially since State aid provides little more to inner city schools than what one would expect on a per capita basis.

However badly Federal programs may need to be reformed—and they do need to be reformed—we should never lose sight of the historic role that these Federal programs have played in ensuring opportunities for our children, and we should be cautious about using Chapter 1 to leverage broader school reform and seeking to equalize State funding.

We do believe, however, that we have an excellent opportunity to reshape Federal programs to mesh them with broader reform efforts. Our recommendations on ESEA attempt to address many of the same issues on reform as the National Chapter 1 Commission, although we have done so in such a way as to provide the committee with some other options.

Mr. Chairman, let me take a moment to summarize our recommendations both for amending currently authorized programs and for initiating new ones. In general, the Council proposes to reorganize ESEA into four broad titles. The first title would include those programs designed historically to ensure opportunities for underserved youth, including Chapter 1, amendments to Public Law 89-313, bilingual education, immigrant education, and homeless education. We recommend, however, keeping the separate categorical nature of each program. We would, however, permit the LEA to commingle up to 5 percent of each of those funds for staff development purposes only.

The second title would include all other programs tied directly to the national education goals with the flexibility at the local level to move up to 20 percent from each area to any other goal—say, move 20 percent from math/science to dropouts, or vice versa, or any other combination of programs within that title.

The third title would include programs to increase institutional capacity, spur reforms, and set standards, and the fourth title would be devoted to providing general aid to meeting the goals in urban and rural public school systems, and repair and renovating school facilities.

Besides amendments to Chapter 1, the Council is proposing modifications to Public Law 89-313, Even Start, school dropout prevention, magnet schools, math and science education, Chapter 2, and impact aid. The nature of these amendments is both technical and substantive, calling for the substantial expansion of Even Start and reorientation of it towards a more school-based early childhood development program without losing the adult component, streamlining math and science, and replacing Chapter 2 with a larger, reform-oriented measure.

Mr. Chairman, the Council is also proposing 11 new Federal programs for consideration by the committee. These programs were developed to help urban schools and others meet critical needs in these areas where there is not now a Federal authorization. The new programs address needs in the area of general funding for urban and rural schools, school building repair and renovation, school research and evaluation, urban school reform, school safety, school health and comprehensive services, youth postsecondary opportunities, urban school and business collaboration, school technology, teacher recruitment and refugee education, and highlights and summaries are included in the back of the testimony.

Our proposals under Chapter 1, however, are most extensive, and they fall into four broad categories: flexibility, targeting, expectations for teaching and learning, and heightened program accountability.

Throughout these recommendations is the proposal to retain the individual eligibility for students under Chapter 1 rather than switching to a school-based eligibility as the Chapter 1 Commission has recommended. We are very enthusiastic, however, about new inclusion and cooperative learning programs and models that have emerged over the last several years as a way of addressing some of the pull-out problems that the Commission has addressed.

First, we enthusiastically embrace making Chapter 1 more flexible at the local level. Not only is the paperwork accompanying the program becoming unwieldy, but the lack of flexibility is starving the program of local ownership. Rather than innovating with funds, we are simply following the owner's manual.

The paperwork that I have brought with me today is the Chapter 1 paperwork for one school district, Philadelphia, that they must submit to the State in order to meet various regulatory requirements. This is simply the Philadelphia Chapter 1 application, it is none of the reporting requirements, none of the testing, none of the financial or any of the other auditing paperwork.

Chairman KILDEE. Is that State reporting?

Mr. CASSERLY. It is a combination of Federal and State.

Chairman KILDEE. It is enormous.

Mr. CASSERLY. We think so, too.

Chairman KILDEE. I hope it is not my fault.

[Laughter.]

Mr. CASSERLY. We wanted to borrow the continuing resolution bill from President Reagan from a couple of years ago, but we couldn't find it.

We do not see flexibility, Mr. Chairman, as some do, as a mechanism for redirecting funds away from children with special needs but as a way of freeing ourselves from some of the process requirements so that we can focus on educational outcomes like I think you want us to.

To address this issue of flexibility, we have proposed to increase the Chapter 1 Innovation Fund from 5 percent to 10 percent except in major cities where the allowance would rise to 20 percent, and to authorize LEAs to actually be able to innovate, which the law does not now allow under the innovation set-aside.

We are also proposing the wider use of schoolwide projects by dropping the eligibility threshold from 75 percent to 65 percent in elementary schools and 50 percent in high schools and by meshing schoolwide improvement efforts with larger school reform measures.

The Council is also proposing to prohibit States from promulgating rules outside the statutory limits of Chapter 1 to mandate that States be required to submit their own rulemaking to the Secretary of Education for review and to give the Secretary explicit authority, which he does not now have, to waive Federal regulations after congressional consultation.

Second, we agree with the conclusions of the Chapter 1 Commission and others that the program funds need to be more targeted. The Council has not proposed any formula changes in this reauthorization, we did not want to start a formula fight, but we have recommended that a super-concentration program be added over and above current funds that would drive new dollars into inner city schools. These new grants would come with the proviso that progress be demonstrated over 3 years or else lose the new moneys and with incentive grants for inner city school districts and schools that are making unusually high progress in their Chapter 1 programs.

We have also proposed requiring the use of the census mapping data and to distribute funds to schools within LEAs on the basis of poverty rather than on the basis of test scores, and then retaining the eligibility for those schools over the three-year application period, so you are not having schools jumping in and out of eligibility.

Third, we would eliminate much of the remedial nature of the program by eliminating references to educationally deprived children and centering the program on the attainment of subject matter mastery rather than simply on the fiftieth percentile.

Finally, the Council proposes under Chapter 1 eliminating the requirement to aggregate norm-referenced NCE test score data from local to State to national levels, like the Commission has, and to base evaluations at each level on sampling data. Also, we propose to use multiple measures of assessment for determining eligibility under the program as long as they are uniformly applied across the district. We agree with others that Chapter 1 has become way to norm-referenced test driven.

Mr. Chairman, that concludes my oral statement. We stand ready to help this committee in any way we can in order to improve the Chapter 1 program and all the other Federal programs. I would be happy to answer your questions.

[The prepared statement of Mr. Casserly follows:]

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Testimony on the Reauthorization of the Elementary and Secondary Education Act
before the
House Subcommittee on Elementary, Secondary and Vocational Education
by the
Council of the Great City Schools

Mr. Chairman, my name is Michael Casserly and I am the Executive Director of the Council of the Great City Schools. I am pleased to appear before you this morning on behalf of the Council of the Great City Schools to testify on the reauthorization of the Elementary and Secondary Education Act (ESEA). Thank you very much.

Currently in its 37th year, the Council of the Great City Schools is a national organization composed of 44 of the country's largest urban public school systems. On our Board of Directors sit the Superintendent and one Board of Education member from each city, making the Council the only education group so constituted and the only one whose membership and purpose is solely urban.

The Council's membership serves about 5.4 million inner city youngsters or about 13.1% of the nation's elementary and secondary education enrollment. Approximately 25% of the nation's poor children, 36.1% of the nation's limited-English proficient, 37.1% of the African-American children, 32% of the Hispanic children and 22.2% of the nation's Asian-American children are educated each day in our urban public school districts. Some 56% of our average enrollment is eligible for a free lunch.

Mr. Chairman, we have supplied to the Committee a comprehensive package of recommendations on the reauthorization of ESEA. I will restrict my remarks this morning to summarizing our proposals. With your permission we would like to submit an extended version of this testimony for the record next week.

Before I continue, however, I would like to take a moment to describe some of the impact of the last reauthorization of ESEA on urban schools. Much of that reauthorization was devoted to issues of targeting, flexibility and accountability--issues that are again in the forefront of this reauthorization along with others. I think you have heard throughout these hearings that Congress took the right first steps in the last reauthorization on those issues but that almost all of us are ready to go considerably farther in updating federal programs, particularly Chapter 1, this time.

The retargeting of federal education programs in the last reauthorization and the additional investment since then have had a major impact on urban schools. Between school years 1988-89 and 1990-91 (the last year on which we have comprehensive data), the share of all federal elementary and secondary education expenditures devoted to the Great City Schools increased from 20.0% to 21.3%, a net increase of about $350 million over previous allotments.

Those extra dollars--and other reform efforts being made in city schools--are having an effect. Some 68.9% of the Great City School districts experienced increases in their standardized reading and math achievement scores across all elementary grades between 1988-89 and 1990-91, while the other 31.1% saw increases in some but not all grades. In addition, the median annual dropout rate fell from 10.6% in 1988-89 to 8.8% in 1990-91, a decline of 17.0%. And the median four-year dropout rate declined from 32.1% to 26.1% over the same period, a drop of 18.7%.

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Still, there is a great deal of progress needed. While the dropout rates and achievement scores in urban schools have improved, dropout rates continue to be about twice the national average and the average achievement levels of urban school children is far below where it needs to be. This is particularly true of our African-American, Hispanic youth, and our poor and limited-English proficient youngsters.

Some 66.7% of our African-American students in grades K-6 scored below the 50th percentile in reading in 1990-91, for example, as did 72% in grades 7-8 and 67.2% in grades 9-12. Similarly, about 69.6% of urban Hispanic students scored below the norm in reading achievement in grades K-6, as did 71.8% in grades 7-8 and 68.3% in grades 9-12. In these numbers rest the seeds of a national tragedy, not just an urban one.

Urban schools are making strides in reforming their districts, down-sizing their administrative staffs and developing programming to address the incredible needs that our children bring to us every day. But we also know and accept the need for further improvement and restructuring. We believe, as do others, that the status quo is insufficient.

But, Mr. Chairman, we need to underscore the fact that this nation is getting what it is paying for in urban public education. The average per pupil expenditure in large urban public school districts was about $5,200 in 1990-91 compared with $6,073 in suburban public school districts, $5,476 in rural schools, and $5,512 nationally. The $873 extra for each suburban child amounts to $21,825 over the course of a year in a class of 25 students, even though the needs of those children are not as extreme.

The help of the federal government becomes extremely important in this context, especially since state aid provides little more to inner-city public schools than what one would expect on a per capita basis. The assistance of the federal government in ensuring opportunities is the critical difference in the lives of many of our young people. However badly federal programs may need to be reformed, we should never lose sight of that historic role.

We do believe, however, that we have an excellent opportunity to reshape federal programs in this reauthorization to further that role. We applaud the National Chapter 1 Commission for bringing to the table important and critical issues that Congress needs to address in improving ESEA.

The recommendations to Congress from the Council of the Great City Schools attempt to address many of the same issues as the Commission, although we have done so in a way to provide the Committee with other options.

Mr. Chairman, let me take a moment to summarize our proposals, both for amending currently authorized programs and for initiating new ones.

In general, the Council proposes to reorganize ESEA into four broad titles. The first title would include those programs designed historically to ensure opportunities for underserved youth, including Chapter 1, Bilingual Education, Immigrant Education and Homeless Education. We recommend keeping the separate categorical nature of each. We would, however, permit the LEA to commingle 5% of each for staff development purposes only. The second title would include all other programs tied directly to the National Education Goals, with the flexibility at the local level to move up to 20% from each area to any other goal. The third title would include programs to increase institutional capacity, spur reforms and set standards. And the fourth title would be devoted to providing general aid to meet the goals in urban and rural school systems, and to repair and renovate aging school buildings.

Besides amendments to Chapter 1, the Council is proposing modifications to PL89-313, Even Start, School Dropout Prevention, Magnet Schools, Math and Science Education, Chapter 2 and Impact Aid. The nature of the amendments are both technical and substantive; calling for the expansion of Even Start and reorientation of it to place more emphasis on school-based early childhood programs without losing the adult literacy component, the streamlining of the math and science program, and the replacement of Chapter 2 with a larger reform-oriented measure.

Mr. Chairman, the Council is also proposing eleven new federal programs for consideration by the Committee. These programs were developed to help urban schools and others meet critical needs in areas where there is not now a federal authorization. While we have written these with an urban focus, we recognize the needs of school districts in poor rural areas. The new programs address needs in the areas of general funding for urban and rural schools, school building repair and renovation, urban school research and evaluation, urban school reform, school safety, urban school health care and comprehensive services, urban youth postsecondary opportunities, urban school and business collaboration, urban school technology, urban teacher recruitment, and refugee education. Highlights of each can be found at the back of this testimony.

Our proposals under Chapter 1, however, are the most extensive and they fall into four broad categories: increased flexibility, greater targeting of funds, increased expectations for teaching and learning, and heightened program accountability. Throughout these recommendations is the proposal to retain individual eligibility for students under Chapter 1 rather than switching to school-based eligibility as recommended by the Chapter 1 Commission, although we see merits in their recommendations.

First, we enthusiastically embrace making Chapter 1 more flexible at the local level. Not only is the paperwork accompanying the program becoming unwieldy but the lack of flexibility is starving the program of local ownership. Rather than innovating with the funds, we are simply following the owner's manual. The paperwork I have brought today is the Chapter 1 paperwork that one district, Philadelphia, must submit to the state in order to meet various regulatory--mostly state--requirements. We do not see flexibility as some do as a mechanism for redirecting funds away from children with special needs, but as a way of freeing ourselves from some of the process requirements so that we can focus on educational outcomes.

To address this issue we have proposed to increase the Chapter 1 innovation fund from 5% to 10% except in major cities where the allowance would rise to 20%, and to authorize the LEAs to actually innovate--which the law does not now do. We are also proposing the wider use of school-wide projects by dropping the eligibility threshold from 75% to 65% in elementary schools and 50% in high schools, and by meshing school-wide improvement efforts with larger school reform measures. The Council is also proposing to prohibit states from promulgating rules outside the statutory limits of Chapter 1, to mandate that states be required to submit their own rule-making to the Secretary of Education for review, and to give the Secretary explicit authority to waive federal regulations in urban schools after Congressional consultation. We are hopeful that these proposals will help minimize undue state restrictions on local innovations.

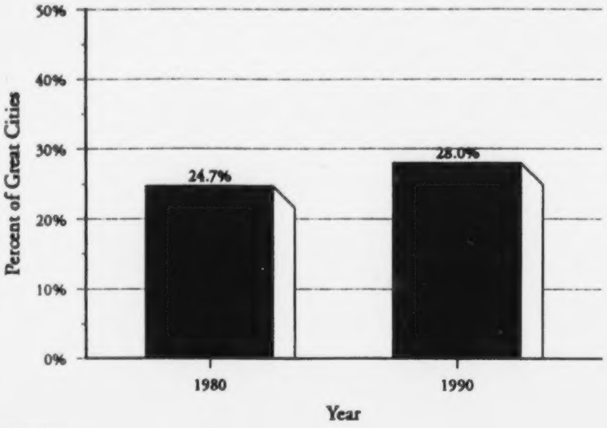
Second, we agree with the conclusions of the Chapter 1 Commission and the Chapter 1 Assessment that program funds need to be more targeted. The Council has not proposed any formula changes, but has recommended that a "super concentration" program be added over and above current funds that would drive new dollars into inner-city schools. These new grants would come with the proviso that progress be demonstrated over three years or else the new monies would be withdrawn, and with incentive grants for districts and schools that were making unusually high academic progress. We have also proposed requiring the use of Census Mapping data, and to distribute funds to schools within LEAs on the basis of poverty rather than test scores and retaining the eligibility for these schools over the course of a three year application period.

Third, we would eliminate much of the remedial nature of the program by eliminating references to "educationally deprived" children and centering the program on the attainment of subject area mastery rather than on the 50th percentile, knowing that caution is needed while these standards are under development.

Finally, the Council proposes eliminating the requirement to aggregate norm-referenced NCE test score data from local to state to national levels, and to base evaluations at each level on sampling data. Also, we propose the use of multiple assessment measures for determining eligibility under the program as long as they are uniformly applied across the community. We agree with others that Chapter 1 has become too norm-referenced test driven.

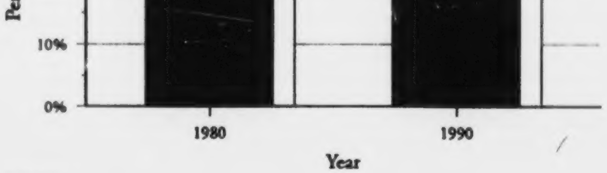
Mr. Chairman, that concludes my oral statement, and we ask permission to submit extended remarks next week for the record. I would be happy to answer your questions.

Great City 5-17 Year Old Population in Poverty



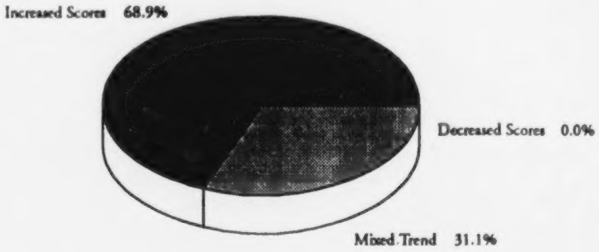
N=47 Cities
Source: Bureau of the Census

Great City 5-17 Year Old Population in Poverty as Percent of Nation's 5-17 Year Old Population in Poverty



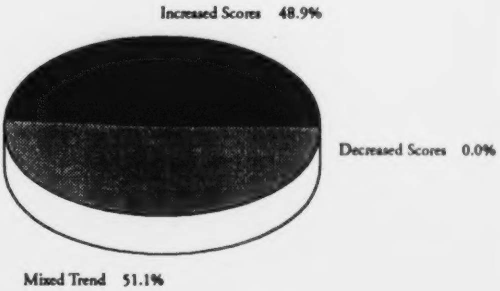
N=47 Cities
Source: Bureau of the Census

Change in Great City School Reading and Math Achievement in Elementary Grades



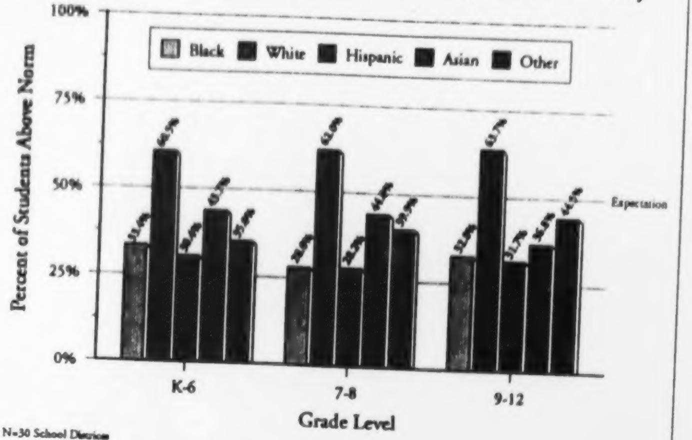
N=45 School Districts
Source: Council of the Great City Schools

Change in Great City School Reading and Math Achievement in Secondary Grades



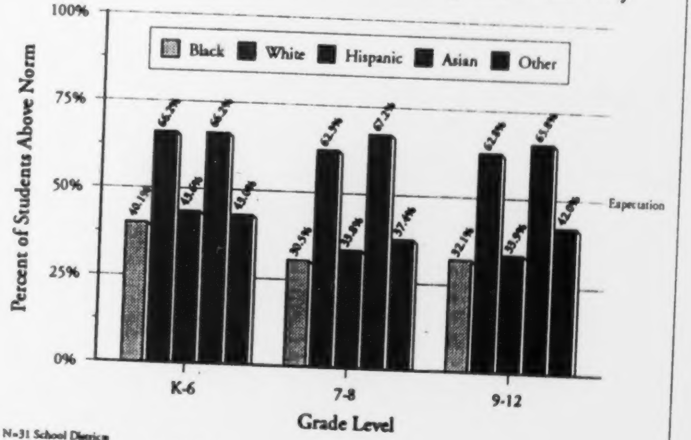
N=45 School Districts
Source: Council of the Great City Schools

Great City School Reading Achievement by Race/Ethnicity

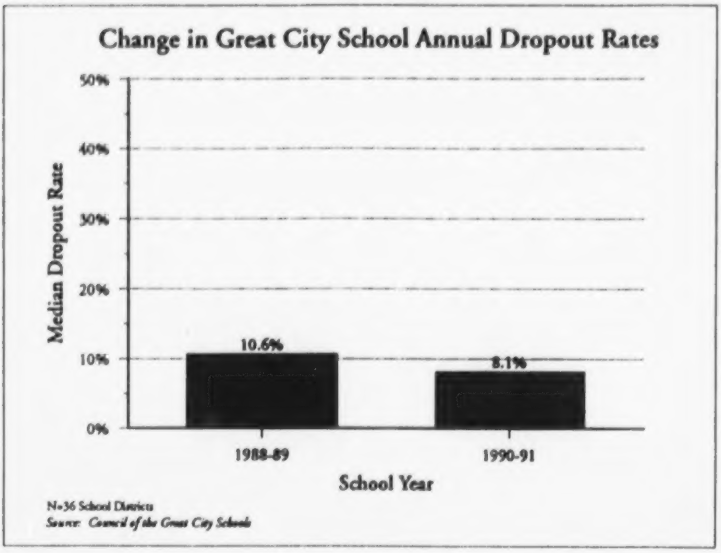


N=30 School Districts
Source: Council of the Great City Schools

Great City School Math Achievement by Race/Ethnicity

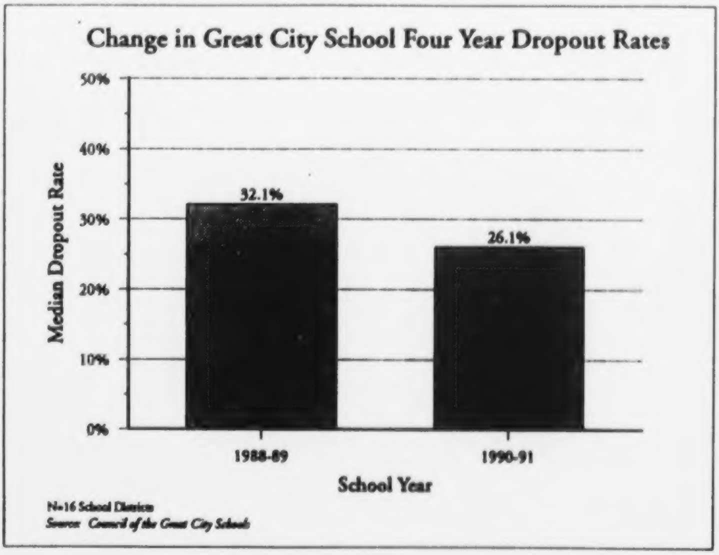


N=31 School Districts
Source: Council of the Great City Schools



Change in Great City School Annual Dropout Rates

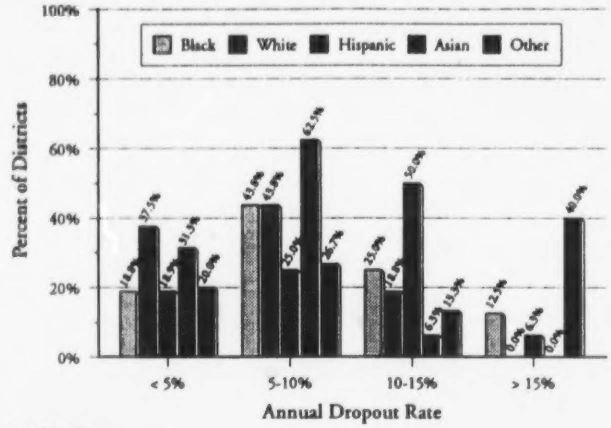
N=36 School Districts
Source: Council of the Great City Schools



Change in Great City School Four Year Dropout Rates

N=16 School Districts
Source: Council of the Great City Schools

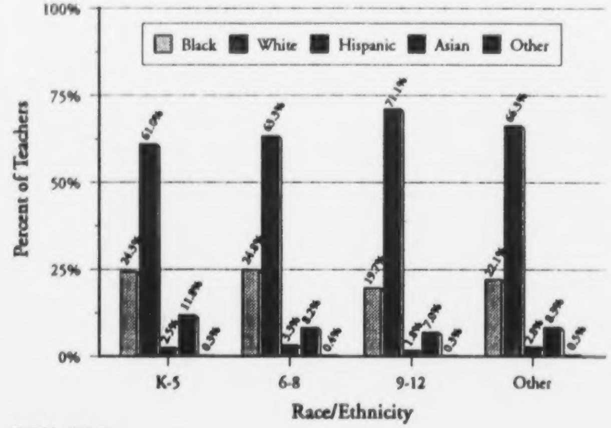
Great City School Annual Dropout Rates by Race/Ethnicity



N=16 School Districts

Source: Council of the Great City Schools

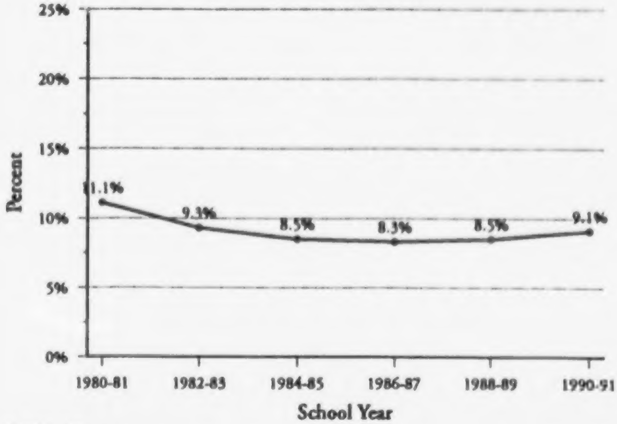
Great City School Teachers by Race/Ethnicity



N=28 School Districts

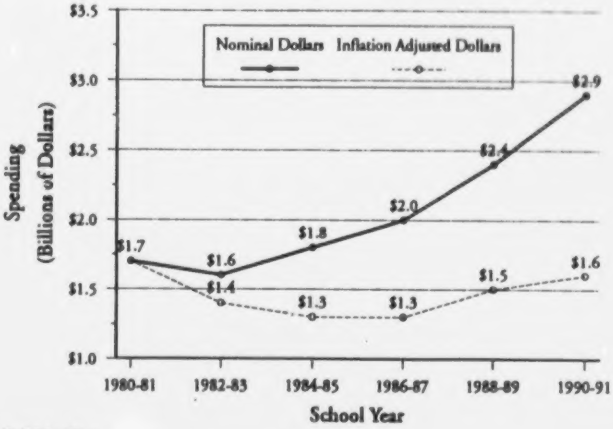
Source: Council of the Great City Schools

Federal Share of Urban School Revenue



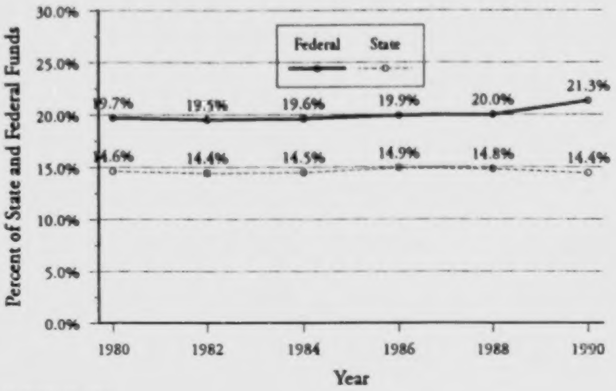
N=47 School Districts
Source: Council of the Great City Schools

Federal Funding to Urban Schools



N=47 School Districts
Source: Council of the Great City Schools

Great City School Share of State and Federal Elementary and Secondary Expenditures



N=47 School Districts

Source: Council of the Great City Schools

Table 6: Average Per Pupil Expenditures

Average per pupil expenditures for large urban school districts by function compared to suburban schools, rural schools and the national average in 1990-91.

Expenditure	Large Urban Schools		Suburban Schools		Rural Schools		National Average	
	Dollar	Percent	Dollar	Percent	Dollar	Percent	Dollar	Percent
Total Instructional Services	$3,223	62.0%	$3,729	61.4%	$3,328	60.6%	$3,392	61.5%
Classroom Instructional	2,335	44.9	2,749	45.3	2,449	44.7	2,492	45.2
Special Education	484	9.3	455	7.5	358	6.5	418	7.6
Books and Materials	101	1.9	147	2.4	166	3.0	141	2.6
Auxiliary Instructional	186	3.6	240	4.0	193	3.5	207	3.8
Improvement and Development of Instruction	102	2.0	83	1.4	51	0.9	71	1.3
Other	15	0.3	55	0.8	111	1.8	63	1.1
Total School Site Administration	$262	5.1%	$295	4.9%	$257	4.7%	$271	4.9%
Total Student Services	$358	6.9%	$417	6.9%	$498	9.1%	$392	7.1%
Health and Attendance	105	2.0	97	1.6	69	1.3	80	1.5
Transportation	196	3.8	231	3.8	342	6.3	234	4.3
Food Services	25	0.5	10	0.2	17	0.3	15	0.3
Student Extracurricular Activities	17	0.3	62	1.0	59	1.0	51	0.9
Other	15	0.3	17	0.3	11	0.2	12	0.2
Total Board of Education	$21	0.4%	$32	0.5%	$33	0.6%	$28	0.5%
Total Superintendent and Executive Administration	$71	1.4%	$99	1.6%	$102	1.9%	$94	1.7%
Total Central and Business Services	$184	3.5%	$146	2.4%	$92	1.7%	$122	2.2%
Total Maintenance and Operations	$460	8.8%	$481	7.9%	$375	6.9%	$417	7.6%
Total Environmental, Fuel and Utilities	$120	2.3%	$146	2.4%	$134	2.5%	$135	2.5%
Total Other Current Expenditures	$144	2.8%	$208	3.4%	$201	3.7%	$165	3.0%
Total Capital Outlay	$220	4.2%	$225	3.7%	$174	3.2%	$242	4.4%
Total Debt Retirement	$75	1.4%	$172	2.8%	$172	3.1%	$149	2.7%
Total Interest on Debt	$62	1.2%	$122	2.0%	$107	2.0%	$103	1.9%
Total Per Pupil Expenditure	$5,200	100.0%	$6,073	100.0%	$5,476	100.0%	$5,512	100.0%

Source: Educational Research Service and the Council of the Great City Schools

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A. SUMMARY OF URBAN SCHOOL PROPOSALS FOR AMENDING CURRENT ESEA PROGRAMS

TITLE I: Programs to Meet Special Needs

Chapter 1, ESEA (see pages 3-56 of "Grey Book")

Increase Flexibility.

- Amend Chapter 1 by increasing 5% innovation fund to 10% except in major cities where fund would increase to 20%.
- Amend Chapter 1 innovation fund to permit innovation.
- Amend Chapter 1 by lowering eligibility for school-wide projects from 75% to 65% in elementary schools and 50% in high schools.
- Amend Chapter 1 by eliminating state ability to disapprove use of school-wide projects.
- Authorize Secretary to waive certain federal and state Chapter 1 regulations for major city school systems.
- Retain categorical nature of current federal programs.
- Amend Chapter 1 to permit a broader use of funds for major cities.
- Amend Chapter 1 to give LEAs explicit authority to use various cooperative and integrative learning approaches rather than pull-outs, without interference from the state.
- Amend Chapter 1 to prohibit state rule-making beyond the statutory limits of Chapter 1.
- Amend Chapter 1 to permit limited services to children once served by the program to minimize students moving in and out of eligibility.
- Amend Chapter 1 to broaden the use of funds under school-wide projects to mesh better with various local site-based reform efforts.

Target Funds.

- Amend Chapter 1 by authorizing a "super concentration grant" with 5% of total appropriations--after current amount--to serve major city public schools.
- Amend Chapter 1 by requiring use of the Census Mapping results for in-county distribution of funds.

- Retain current Chapter 1 Basic and Concentration formulas.

- Amend Chapter 1 by allocating funds to schools on basis of poverty to eliminate schools moving in and out of program based on test scores.

- Amend Chapter 1 to allow schools to remain eligible for three year duration of plan.

Increase Expectations for Teaching and Learning.

- Amend Chapter 1 by emphasizing advanced and higher order thinking skills in reading, math and language.

- Retain child-centered eligibility rather than school-centered eligibility.

- Base program on subject mastery rather than solely on remedial education.

- Amend Chapter 1 by eliminating references to "educationally-deprived children".

- Amend Chapter 1 by requiring that programs at the local level are developmentally, linguistically, and educationally, and culturally appropriate.

Assessment and Accountability.

- Amend Chapter 1 by eliminating requirement for aggregatable norm-referenced test results for evaluating program based on NCE's.

- Amend Chapter 1 by basing student eligibility for services on multiple assessment measures of those furthest away from mastering subject areas--rather than the sole use of norm-referenced test results.

- Amend Chapter 1 by basing Chapter 1 local, state and national evaluations on sample not universe data.

- Amend Chapter 1 by eliminating requirement to test in grades K-3.

- Retain school and student program improvement but amend them by permitting counts of individual students not making progress rather than on average test scores of schools.

- Amend Chapter 1 by authorizing the Secretary to reserve 10% of "super concentration grants to make incentive grants to school districts and schools in major cities for unusual progress under Chapter 1.

- Require major city schools receiving funds under "super concentration" to show improvement of achievement or risk losing funds.

- Amend Chapter 1 to clarify that local evaluations of program shall be based only on subject areas taught with program funds.

- Amend Chapter 1 to require that instructional strategies be grounded in demonstrable effective practices.

Staff Development

- Amend Chapter 1, PL94-142, Bilingual Education, Immigrant Education, Refugee Education, and Homeless Education to permit--but not require--at the local level only school systems to commingle not more than 5% of total allocation from these programs for the purposes of staff training across needs, but not service delivery.

- Amend Chapter 1 to require a staff development plan for funds expended pursuant to above.

Bilingual Education Act (see page 56 of "Grey Book")

- Retain the current Bilingual Education program. (Council's positions here usually correspond with those of advocacy groups which have not completed their recommendations yet.)

Individuals with Disabilities Act (see pages 57-58 of "Grey Book")

- Amend both PL89-313 (Chapter 1 Handicapped) and IDEA to smooth the transition in the state's share of funding during the program's shift from Chapter 1 to IDEA.

TITLE II: Programs to Meet National Education Goals

Even Start Act (see pages 72-79 of "Grey Book")

- Amend Even Start to increase authorized spending ceiling from $50 million to $1.0 billion.

- Amend Even Start by distributing funds according to the Chapter 1 formula to LEAs once the appropriation hits $200 million.

- Amend Even Start by reordering the priorities of the program to put greater emphasis on school-based early childhood development and education programs.

- Retain programming for adult literacy.

School Dropout Prevention (see pages 82-94 of "Grey Book")

- Mesh the current Dropout Prevention demonstration program and the unfunded formula grant program into a single part of the Act for purposes of clarity.

- Amend the Dropout Prevention program by eliminating separate programming for LEAs and CBO's and requiring coordinated efforts under the aegis of the school system.

- Amend the Dropout Program by reducing the dilution of limited funds and eliminating grant eligibility for regional labs.

Magnet Schools (see pages 114-119 of "Grey Book")

- Retain current eligibility under program.

- Amend Magnet School program to allow three-year grants rather than two-year grants.

- Amend Magnet School program to make definitions of racial isolation and desegregation consistent with local plans or court orders rather than being federally-set.

- Amend Magnet School program to clarify that funds may be used to hire counselors and instructional aides, to retain consultants, to develop curricula, to provide staff training, and to operate -- not just start -- a magnet school program.

- Amend Magnet School program by deleting "recentness of plan" language as a priority for grants.

- Amend Magnet school program by clarifying that prohibition on the use of funds for busing does not include student field trips.

Math and Science Education (see pages 122-135 of "Grey Book")

- Amend the Math/Science Education program to reduce the dilution of limited funds by eliminating separate programming for higher education.

- mend the Math/Science Education program by updating and expanding the uses of funds at the local level.

- Amend the Math/Science Education program by placing local emphasis in program services on schools which qualify for school-wide services under Chapter 1.

- Amend the Math/Science Education program by eliminating language requiring that staff training be conducted first before any other use of funds.

TITLE III: Programs to Reform Education
(See new proposals)

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TITLE IV: Programs to Assist Urban Schools

Chapter 2, ESEA (see pp. 56, 181-198 of "Grey Book")

- Repeal Chapter 2 and replace it with a program about three times larger with greater targeting on LEAs, and permitting LEA to continue projects currently supported under Chapter 2.

Impact Aid (see page 207 of "Grey Book")

- Amend Impact Aid to permit counts of children residing in Section 8 subsidized housing under the public housing section of the program.

B. SUMMARY OF URBAN SCHOOL PROPOSALS FOR NEW PROGRAMS

Urban Schools of America (USA) (see page 208 of "Grey Book" for text of bill)

- Authorizes such sums as necessary each year through 2000 for formula grants from the Secretary of Education to about 100 urban school systems for programs to meet the National Urban Education Goals;
- Requires 5% of LEA grants for meeting the National Goals be shared with local community-based groups or business collaboratives;
- Contains major accountability section that would cut off "USA" funds to eligible schools that did not show progress toward meeting the goals according to pre-set criteria;
- Authorizes 5% of total funds be used for incentive awards to schools which show unusual progress toward the Goals;
- Requires the establishment of a local advisory group to assist in planning for the program.
- Authorizes such sums as may be necessary each year to repair and renovate aging inner city school buildings;
- Authorizes $100 million each year for urban school research and evaluation of progress toward the National Urban Education Goals;
- Establishes an Interagency Task Force on Urban Schools, a National Commission on Urban Schools and an Office of Urban Education within the Department of Education;
- Authorizes an assessment of federal regulations whose burden or duplication may hamper urban school performance; and authorizes the Secretary to waive such regulations to act as incentive to performance.

Urban School Building Repair and Arbitrage Rebates (see page 238 of "Grey Book" for text of bill)

- Would authorize such sums as necessary in new formula funds for major city public schools systems to repair and renovate aging instructional school facilities, including general repair and maintenance and repair needs relating to environmental mandates, technology, building security, and others.
- Targets funds on the nation's largest city school systems.
- Would create a special partial exception to the 1986 tax reform bill to lengthen payment rates of bond proceeds and increase arbitrage earnings for school systems.

Urban School Research and Evaluation (see page 199 of "Grey Book" for text of bill)

- Would authorize $100.0 million each year for urban school research and evaluation on the national urban education goals.
- Would reserve 20% of funds for a National Institute of Urban Education for national research and technical assistance in urban education.
- Would distribute remaining 80% to major city school systems.
- Would provide funding to school systems for evaluation of reform projects and activities, research on promising practices, staff training, implementation of national and state standards and curricular frameworks, monitoring progress on the national education goals, development of multiple assessment techniques, technical assistance to schools, technology, outreach to parents on assessment results, and coordinated research efforts across cities.

Urban School Reform (see page 181 of "Grey Book" for text of bill)

- Would authorize $1.5 billion a year for urban school reform measures.
- Would permit states to retain 10% of funds for state-wide reform, goal setting and curricular efforts; would distribute 30% of the remained to major city school systems, and the balance to other LEAs. Some 10% of funds allocated to each LEA would remain with the LEA for city or community-wide reform and technical assistance efforts with the remaining 90% being spent on individual school-level reform efforts.
- Would provide funds in city schools for projects to meet the goals, assess progress, develop coherent community-wide strategies for improvement, staff development, technical assistance to schools, incentive grants to schools, private contractual arrangements, system-wide regulatory reform and review, development of comprehensive service delivery mechanisms with other organizations, technology, development of accountability and assessment systems, and other uses now authorized under Chapter 2.

- Would require applications from schools to LEAs for site-based projects with schools running their own LEA-approved projects in the areas of instructional innovation, site-based management, staff development, multi-cultural programming and others.

- Would authorize the Secretary of Education to waive various federal regulations for up to 20 urban public school systems on a pilot basis to provide extra program flexibility and to serve as an incentive for performance.

Urban School and Community Safety (see page 160 of "Grey Book" for text of bill")

- Would authorize $100.0 million a year for urban school and community safety measures.

- Would reserve 80% of program funds for major city school systems and 20% to others.

- Would permit funding to eligible school systems for projects in the areas of community outreach, planning and collaboration; staff training in conflict resolution and peer mediation strategies; security measures; data base development; neighborhood patrols; drug abuse and gang prevention strategies; counseling; and metal detectors.

- Would limit expenditures of program funding for hardware, metal detectors and other security apparatus to 20% of the grant.

- Would require that 15% of grant be used for planning and coordinating work.

- Would require an application to the Secretary of Education with pertinent information.

- Would require progress by the school system in the area of safety in order to be eligible for a continuation of funding.

Urban School Health Care and Comprehensive Services (see page 168 of "Grey Book" for text of bill)

- Would authorize $200.0 million a year for comprehensive services and health care programs based in schools.

- Would distribute 80% of funds to major city school systems and 20% to others.

- Would require LEAs' wishing funds under the program to file an application with the Secretary of Education with pertinent information.

- Would authorize funds for program planning and the development of interagency agreements on service delivery; and programs for on-stop social services, parental and family outreach, in-service training, family drop-in centers, health education curriculum development, drug and alcohol abuse prevention, direct provision of health services, physical education and fitness programs, nutrition education, school-based health clinics, and other related activities.

- Would require establishing a local planning and advisory group to assist in developing program plan.
- Would require that 10% of grant be spent on planning activities.
- Would require the LEA to demonstrate progress on service delivery and health for students or be ineligible for further assistance.

Urban Postsecondary Youth Opportunities (see page 148 of "Grey Book" for text of bill)

- Would authorize $50.0 million a year for programs to enhance postsecondary education opportunities for urban youth, $50.0 million a year for school-to-work transition programs, and $50.0 million for urban youth apprenticeship programs.
- Would distribute 80% of funds to major city school systems and 20% to others.
- Would require the LEA wishing funds from any of these three programs to file an application with the Secretary of Education with pertinent information.
- Would authorize funds to LEAs for programs to increase the numbers of urban school graduates who attend four year colleges and universities, including counseling programs for middle and high school youth, tutorial and informational services, follow-up and outreach activities, and scholarships.
- Would also authorize funds to LEAs for programs to ease the transition from school-to-work for those students not pursuing college at least for the meantime, including programs integrating academic and workplace skills, counseling and dropout prevention, technology and vocational training, community volunteer programs, and coordination with other programs.
- Would also authorize funds to LEAs for programs of apprenticeships to youth.
- Would require LEAs receiving funds to make progress on the related goal or be ineligible for further funding.

Urban School and Business Collaboration (see page 138 of "Grey Book" for text of bill)

- Would apply to schools in major cities whose average enrollment was at least 1.5 times the city-wide average, or schools whose attendance areas have youth unemployment rates at least 1.5 times the national average, or schools which are located in an "enterprise zone".
- Would amend the 1986 Tax Code to authorize a tax credit on 25% of cash contributions to urban schools for operating youth apprenticeships, youth

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employment training and other programs.

- Would apply only to donations over-and-above current level of donations by individual corporations, and would not apply to any corporation whose local taxes were abated as an incentive to remain in the city limits.

- Would also authorize enhanced tax deductions for corporations for contributing equipment or property to eligible schools.

- LEAs and schools could use the donations for implementing or expanding school-site reform efforts, community service programs, apprenticeships, scholarships, repair and renovation of facilities, instructional technology, and efforts to increase preschool services and academic achievement.

Urban School Technology (see page 96 of "Grey Book" for text of bill)

- Would authorize $100.0 million a year for programs in urban schools to improve student access to technology.

- Would distribute 80% of funds to major city schools systems and 20% to others.

- Would authorize funds to LEAs for programs to purchase or lease computer hardware and other instructional technology, to purchase or develop instructional software, to modify buildings to accommodate technology, teacher and staff in-service training, interactive technology, curriculum development, to establish technology libraries and centers in schools for students, parents and teachers, to establish computer lending programs for low-income parents, efforts to expand racial, language and cultural offerings in the curriculum and efforts to improve teacher management of classroom instruction, and other purposes.

- Would require that LEAs receiving funds to use 15% of it on planning for technology.

- Would limit administrative costs to 5% of funds under the program.

- Would require LEAs wishing funds to apply to the Secretary of Education.

- Would require the LEA to demonstrate progress in the achievement of its project youth to retain eligibility for funds under the program.

Urban Teachers' Professional Development (see page 102 of "Grey Book" for text of bill)

- Would authorize $100.0 million a year in new discretionary programs for major city public school systems to pilot test and evaluate various measures to improve the professionalization of teaching, including school-site management and reform efforts, career ladders and mentoring.

- Would authorize $100.0 million a year in new programs for major city school systems to design and implement various teacher recruitment strategies, particularly those designed to recruit minority teachers and to establish 5th year teaching programs with colleges of education.

- Would authorize $250.0 million a year in new programs for major city school systems to provide in-service teacher training programs, with emphases on filling shortage areas, instructional technology, multi-culturalism, site-based management needs, parent outreach, and implementing national standards and state curricular frameworks, and conflict resolution. Standards.

- Would authorize a $5.0 million a year "National Academy of Urban Teaching" to serve as a clearinghouse and training center for urban teachers.

- Would forgive federal student loans for individuals who agreed to teach for five or more years in a major city school system school whose minority enrollment equals or exceeds 50%.

- Includes an accountability provision which would cut-off funds to LEAs not making progress in the recruitment of minority teachers.

- Targets funds on the nation's largest city school systems.

Refugee Education (see page 59 of "Grey Book" for text of bill)

- Would authorize $50.0 million a year for programs to provide education programs for refugee children.

- Would establish an entitlement program for the education of refugee children.

- Funds would flow through the states to LEAs based on the numbers of refugee children were being served in that district.

- Would authorize funds for language training, inservice training of staff, social and health services for refugee children, curriculum development, and other supplemental educational services

- Would require LEAs wishing funds under the Act to submit an application to the state with pertinent information.

- Would authorize pro-rated payments of $1000 for each child in country for less than one year, $750 for each child in country for between 1 and 2 years, and $500 for each child in country between 2 and 3 years.

- Would require the Secretary of Education to consult with other federal agencies providing refugee services.

Chairman **Kildee**. Thank you very much, Michael.

Without objection, we will not include all of those recommendations in the record of this hearing, but we will record the dimensions in the record of this hearing.

Sister Lourdes.

Sister **Sheehan**. Good morning and thank you.

I'm Sister Lourdes Sheehan, the secretary for education at the United States Catholic Conference, and I'm grateful to be here this morning to testify on behalf of the 2.5 million young people served by these schools, their parents, and the thousands of teachers. I am also a member of the CAPE Board of Directors—CAPE is the Council for American Private Education—and while I do not speak in this testimony in the name of CAPE, many of the concerns that I am going to raise are shared by other private schools in the United States.

We have provided you with written testimony, which I would request be part of the record, so I would like at this time to concentrate my oral remarks into three categories. I would like to make some comments regarding Catholic schools in general and some of the principles that we believe undergird ESEA at the present time, and we support those principles. Then I would like to give you specific recommendations for ESEA and then summarize some of our recommendations to Congress.

So let me just remind you that if Catholic schools in the United States—that is, the 8,500 that exist—were considered one school system, that would be the largest number of schools in any one system in the United States, and the number of students served by those schools would tie with New York for the third highest number of student enrollment. So we are talking about a significant number of students and schools and their service to the young people and to this Nation. It is also important, I think, to remember that we spend over $7 billion in private money to educate these children.

As far as the principles undergirding ESEA are concerned, it seems to us that the Federal Government has an interest and a responsibility to assist and encourage higher levels of educational attainment by every student, that one Federal role is to assist students in overcoming educational difficulties associated with lower economic environment, that the Federal concern is to help students, not finance school systems, that the Federal aid should follow the student irrespective of the school that the student attends, and that by focusing on the student and providing supplementary services the Federal program respects the autonomy of the local school and the community that the school serves.

Now I would like to share with you some recommendations that we have for ESEA reauthorization. Most of my comments are going to be centered on Chapter 1 because that is the program that we are most concerned about because it serves the largest number of educationally and economically disadvantaged children, but I will make some concluding remarks about some of the other programs included in the legislation.

So, first of all, the United States Catholic Conference supports the reauthorization of the landmark ESEA, Chapters 1 and 2. We strongly support full funding so that all eligible students receive benefits, and we support the expansion of Chapter 2 services.

Our second point: The quality of the services that Chapter 1 provides private school students needs improvement. Let me just remind you, because of the negative impact of the Aquilar v. Felton decision, private school students in Chapter 1 programs all participate in what educators call the pull-out aspects of the program. Because of that, the travel time and the concerns about safety are serious difficulties.

For example, young children walk to their Chapter 1 sites in 60 percent of Catholic elementary schools with Chapter 1 services. Often these children contend with weather problems, early darkness, and travel. None of these are trivial concerns for elementary schoolchildren.

Our third point: Too few eligible private school students are served. Now I want to be clear in this part of the testimony that this concern that we are expressing is different from the concern that you wiil hear from other educational leaders. The students that we are concerned about meet all the current existing selection criteria, and they should be receiving services under the existing program at current funding levels, but these services are not being provided to them.

Some of the reasons that that is happening, we believe, are: the LEAs are not reporting the number of eligible students in private schools; it is very difficult to identify—they believe it is difficult to identify the students that they are called to serve; and we believe that some districts are not adequately assessing private school student needs before determining the services that they will provide.

There continues to be inadequate consultation, and, as I mentioned before, the quality of services offered is not consistent with what we think the Congress intended in this particular piece of legislation.

Our fourth recommendation for reauthorization concerns the impact of the Supreme Court Felton decision and capital expenses. We believe that the capital expense provision needs the addition of priorities so that the SEA would ensure that the first use of funds would be for restoring services to students and that the grant sizes are of sufficient size even to small districts to effect restoration.

We also support the suggestion of several independent reviews that recommended that the Federal Government or LEAs experiment with alternative modes of delivering Chapter 1 services to meet more of the eligible students with higher quality services at a given funding level, such as the use of third party contractors. In any case, there is a large and, in many States, increasing number of private school students who qualify for Chapter 1 services but are not receiving them.

Let me now summarize what we are recommending to Congress regarding some very specifics. Concerning education reform and new programs, our first recommendation is that Congress maintain the child benefit and categorical approach to ESEA. If a school-based approach is introduced into ESEA or comes about as a part of block granting, then such an approach could only be acceptable if the reform legislation contains specific safeguards to ensure the continued, full, equitable, and comparable participation in these programs of students attending private schools.

Our second point: Private school students and staff should have the opportunity for equitable participation in all appropriate Federal programs and services.

The third is that the program ought to incorporate sufficient flexibility to meet the needs of private school students, and here I have a specific recommendation as an example. In some of the bilingual programs recommended for use in public schools, the language suggested is not the language of the children served in the private schools, and where there is not flexibility our students can't participate in the bilingual programs, so we urge flexibility.

Our fourth point is that representatives of the private school community should be full partners with their public school counterparts in the planning, implementation, and evaluation committees relating to such programs.

Regarding Chapter 1 improvements, here are our summary recommendations. Programs and services need to be improved so that eligible private school students are served in an effective and efficient manner. We need to improve the selection of eligible students by moving from a process limited to the use of norm-referenced tests to a more flexible system, such as teacher reference or portfolio.

Thirdly, in local programs in which LEAs have been unable or unwilling to provide Chapter 1 services to eligible private school students, we urge that you consider the use of a third party contractor or, as a last resort, some form of parent certificate.

Regarding capital expenses, specifically we recommend that the grants should be used only to increase the number of private school students served, to improve the quality of services to these students who are underserved and to sustain the level of existing services to private school students.

Secondly, we ask that you change the restriction on the use of capital expenses to permit the acquisition of educational technologies that provide for interaction between students and teachers.

Thirdly, we ask that you require a sign-off by private school administrators on how capital expense funds are to be used.

Another point that we ask specifically is that you provide in the statute a clear and detailed definition of what the LEA's consultation responsibilities are and what remedies are available if this responsibility is not observed, and we urge you to be sure that this consultation includes parents.

Because of previous problems, we ask specifically that Chapter 1 services in private schools be required to begin no later than 15 teaching days after the start of the school year.

Now we have a number of other recommendations regarding other parts of the legislation, but in general what we would like to ask you to ensure is that in all programs we recommend that the law include specific provisions for the participation of private school students, faculties, and parents.

In conclusion, I would like to state that the United States Catholic Conference specifically and the private school community generally expect to participate in these continuing deliberations with our counterparts in public and other private schools and in Congress.

We recommend that Congress and the U.S. Department of Education initiate as part of the ESEA reauthorization a broad-based and comprehensive deliberation about the overall education needs of our Nation's youth that would involve all the partners in the education community, public and private schools, teachers, parents, students, and the business community.

Recently, we have had the opportunity to hear both President Clinton and Secretary of Education Riley state clearly their intention to include all of America's children in educational reform legislation, and therefore we want to assure you that we support the concept of true and constructive education reform. We endorse in general the six national education goals. But virtually every reform contemplated, whether the national goals or a wide variety of suggestions for systemic change, will directly or indirectly impact on private schools and students.

Therefore, it is critical that the professional experience and expertise of the entire education community, public and private, be involved in all levels of this deliberation so that there results genuine improvement implemented to benefit all of the Nation's young people.

That concludes my oral testimony, and I too stand ready to answer questions that you may have, and I thank you again.

[The prepared statement of Sister Lourdes Sheehan follows:]

SR. LOURDES SHEEHAN, RSM
SECRETARY FOR EDUCATION

Good Morning, Chairman Kildee, ranking minority member Congressman Goodling, and members of the Subcommittee on Elementary, Secondary and Vocational Education. Thank you for the opportunity to testify on the reauthorization of the landmark Elementary and Secondary Education Act. I am **Sr. Lourdes Sheehan, Secretary for Education of the United States Catholic Conference.** I am speaking for the nation's archbishops and bishops in the 197 U.S. archdioceses and dioceses, for the more than 153,000 professional educators who operate 8,508 Catholic schools, and for the 2.5 million students and their families who support these schools with their financial sacrifices, their time and their labor.

I am also a member of the board of the Council for American Private Education (CAPE). CAPE is a coalition of the 14 largest private school systems and affiliation groups. It accepts only non-profit, non-discriminatory schools as members, and counts as members over half of the estimated 30,000 U.S. private schools. Its member schools enroll more than 70 percent of the estimated 5.3 million private school students. While I am not formally representing CAPE, the issues I am raising are concerns of the CAPE leadership.

My comments have been developed out of a year-long process of consultation with those persons responsible for coordinating federal education programs in dioceses throughout the U.S., a group that comprises USCC's Federal Assistance Advisory Commission (FAAC.) The recommendations of the FAAC have been reviewed and approved by USCC's Public Policy and Catholic Schools Committee and then by USCC's full Committee on Education. These comments, then, are the carefully considered distillation of the experience with ESEA as it serves eligible Catholic school students throughout the country. I believe these comments will also reflect the experience of other private school students with the program.

The federal government has a strong interest in the accomplishments of private education. The Catholic schools, and private schools in general, are a major education resource for the United States. Federal education programs aim at increasing educational opportunity for individual students, at encouraging schools to higher levels of quality and students to higher levels of performance, for the nation's good. For these goals to be fully realized, private schools and staffs must be included in the effort. Every federal program should provide for the participation of private school students and staffs equitably and comparably. We believe that all programs should be sufficiently flexible in their design to reach and be of use to private school students while respecting the autonomy and unique character of the private school.

There has been a long tradition of full discussion and cooperation among federal education leaders and representatives of the public and private school communities in developing consensus for new programs and education reforms. The tradition should continue: private education representatives should be present as full partners with their public school counterparts in the planning, development, implementation, and evaluation committees relating to the formulation of federal education goals, and the design and implementation of programs. We believe this tradition has been beneficial to education.

I will begin my presentation with a set of principles and a summary of our concerns. *USCC wishes the Committee to understand that we believe these principles should guide the inclusion of private school students in all federal education programs, beginning with Chapters 1 and 2, from which they are drawn, and extending to all others.* I will follow this summary with a more detailed discussion of Chapter 1, other programs in the Act, and on the proposed reforms.

We specifically endorse the principles on which Title 1 was built and that allowed it to prosper. Whatever changes are contemplated in the program, we believe these principles continue to be followed for the general good of education. May we also say that it would be a disservice to American education for any education group to seek to restrict federal interest, concern, and support solely to its own students, ignoring similar needs of other American children.

In general, we believe that the support for educational investment and improvement is strongest if the education community is not divided against itself, and that the passage and continued support for ESEA proves this. Programs that assist students in public and private schools are better than those that leave some out. Federal programs should not be devices for securing the advantage of one sector of the education community over others. Federal programs should accommodate the diversity that exists in American education, as one of the sources of its strength. And programs that take this approach will be most acceptable to the local public schools as well as to the private schools.

ESEA is a model because it embodies the following principles:

(a) The federal government has an interest and a responsibility to assist and encourage higher levels of educational attainment by every student.

(b) One federal role is to assist students in overcoming educational difficulties associated with lower income environments.

(c) The federal concern is to help students, not finance school systems, though obviously the two are related. The federal program supplements and complements the basic program of the school. It adds to; it does not replace. The test of a good program is whether the students received beneficial help, not whether the school received more funds.

(d) The federal aid follows the student irrespective of the school the student chooses to attend.

(e) By its focus on the student and providing supplemental services, the federal program respects the autonomy of the local school and the community that operates it. The federal government does not desire, intend, or attempt to direct or in any manner take over the program of the local school. (Parenthetically, we in the private school community believe this principle of local control is sound, realistic in the American context, and serves the concerns of the private school community as well.)

(d) The federal role is not to advantage or disadvantage either public or private schools in their friendly, if uneven, competition for students. The role of the federal government is essentially neutral with respect to the schools, but intends to assist children no matter what school they choose to attend.

(e) The state and local public school education agencies are trustees of the federal government to provide federal services to all students who have a right to them, irrespective of whether they are attending public or private schools. If LEAs are unable to perform this role satisfactorily, the Department of Education has the authority and responsibility to select trustees who can.

Recommendations for ESEA

Chapter 1 should be reauthorized, but improved.

1. USCC strongly supports the **reauthorization** of the landmark ESEA, Chapters 1 and 2. We strongly support full funding, so that all eligible students receive benefits, and we support the expansion of the role of Chapter 2.

From 1965 through 1985, ESEA Title I was repeatedly amended to ensure that eligible private school students were fairly served by LEAs. Amendments added required consultation with private school teachers and administrators in identifying the students who were eligible and the services that would best serve their needs. Amendments also required that eligible private school students be included equitably and comparably in the services provided; that the LEAs and SEAs gather information on the participation of the private school students; provided for the appointment of independent contractors to supply Chapter 1 services when LEAs failed to provide appropriate levels of service to all eligible students; and provided that the Chapter 1 services to eligible private school students be included in any longitudinal evaluation of the program.

If the program remains substantially unchanged, these features require some strengthening. If the program is substantially changed, the new program must have features that attend to the issues these provisions attempted to solve.

2. **The quality of the services Chapter 1 provides private school students needs improvement.** Both public and private education leaders have raised concerns with the pull-out approach to the delivery of services, since the practice disrupts the regular classroom schedule, causes some loss of those services, and makes the Chapter 1 services more difficult to harmonize with the basic program. Chapter 1 services to private school students are always extended pull-out and almost always off site, and the problems of maintaining program quality are even more difficult.

The Department of Education's recent Chapter 1 implementation study found that the **planning, coordination and consultation** with the student's regular teacher that is necessary to a useful, high quality Chapter 1 program most often takes place in the public schools in informal contacts between teachers in the course of the school day. Such frequent and unscheduled meetings cannot happen between Chapter 1 teachers and program administrators and private school teachers, since they are at different locations. So while such measures of quality as time spent in instruction and pupil-teacher ratios may be similar in the public and private portions of the Chapter 1 program, the quality of the private school program is nevertheless not as good as possible.

Because the private school student is pulled off-site for Chapter 1 classes, travel time and safety are added difficulties. For example, young children walk to their Chapter 1 site in 60 percent of Catholic elementary schools with Chapter 1 services. Often the children must contend with weather problems, early darkness, and traffic--none of these trivial concerns for first graders. Best are programs in vans or portable classrooms adjacent to private school sites, the practice in 30 percent of the programs serving Catholic elementary school students. The Capital Expense provision has helped increase the use of this approach. In any case, making the pull-out off-site Chapter 1 program used for most private school students worthwhile takes more than the ordinary planning and coordination effort.

USCC is particularly concerned that some LEAs may be selecting types of Chapter 1 services more for administrative or logistical than educational reasons. For example, though we are not in principle opposed to instruction by computer, we are concerned with the extraordinary expansion of this approach to Chapter 1, now involving 36 percent of programs serving Catholic elementary school Chapter 1 students. There are reasons for caution. First, the technology has not been proven effective for students with the sorts of difficulties young Chapter 1 students experience. Second, the computer programs are generally designed for later, upper grade intervention, and bypass the beginning grades. The Catholic schools believe earlier intervention is more important. Third, in a least one third of the cases, the computers are used without a teacher present and generally without access to a teacher. The effectiveness of computer usage, and of the Chapter 1 assistance, is thus diminished. Fourth, to be most effective, many educators believe that the computer must be fully integrated into the curriculum, not simply a one-shot effort. But the program does not accommodate that kind of integration. Finally, there is a concern that the computer programs focus only on basic skills rather than developing higher level thinking skills.

In general, we have found that federal expenditures could produce much greater educational benefits if changes in implementation or legislation allowed the funds to be used more flexibly in serving private school students.

3. **Too few eligible private school students are served.**
The issue for these students has not been a funding issue, since the students qualified for services at the levels of funding the LEA received. USCC believes that serving all the students who qualify for services must be a priority at every level of Chapter 1 administration.

We want to be clear that the problem we are here presenting is different from the concern many education leaders have raised, that the current level of Chapter 1 funding is insufficient to reach all eligible students. That problem is solved by full funding of Chapter 1; those eligibles would then be served. There are many eligible students of this sort in private schools as well as in public, but they are not the ones we are here referring to. Rather, the students we are concerned with meet all existing selection criteria and they should be receiving services under the existing program at current funding levels, but the services are not provided to them.

Ensuring that such students receive their services must become a priority of Chapter 1 administration at every level. Congress has repeatedly addressed this problem through amendments in past

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reauthorizations that mandated that private school students be served comparably and equitably; that mandated Chapter 1 administrators consult with the private school officials and parents at each stage of implementation; and that established a by-pass provision through which the LEA would be relieved of its trusteeship for nonperformance, and responsibility for serving the private school students given to a contracting organization.

In reviewing our own schools' experience, we find deficiencies in the following areas:

- LEA reporting. We find too few students reported as eligible and the number reported served overstated.
- Identifying students to serve. Some districts are not surveying all the private schools enrolling students who reside in their target areas; some are not surveying all geographically eligible students for academic need. We also find problems with the definition of need, and the exclusive reliance on norm referenced tests to identify eligible students.
- Assessing needs. Some districts are not adequately assessing private school student needs before determining the services they will provide. Thus some needs are not met.
- Consultation. We find some problems with the level of consultation between Chapter 1 administrators and teachers and private school parents, teachers and administrators. These problems are having damaging effects on the appropriateness and quality of Chapter 1 services and coordination with basic educational programs.
- Quality of services offered. Off-site services should reach students with the highest quality service. They should not damage the student's ability to participate fully in the home school's educational program, or subject the students to unreasonable personal safety risk. We find some LEAs offering services that do not meet these standards.

Quality issues strongly affect the ability of the Chapter 1 program to reach all the children it should be serving in private schools. The Department of Education Chapter 1 implementation study found that 16 percent of LEAs reporting that parents or private schools had declined to participate in Chapter 1 because the services offered were not worth the problems they caused. This kind of problem can be solved, has been solved in many districts, and should not be a reason for failing to serve those private school students who have a right to services. Few parents or schools would reject genuinely valuable services.

The By-pass, which should remain a feature of Chapter 1, was designed to solve these kinds of problems. The By-pass should not be a costly adversarial proceeding that is damaging to the relationship between the public and private school community.

4. **Felton and Capital Expenses:** The slow progress toward fully serving all private school participants received a setback in 1985. The Supreme Court's Aguilar v Felton decision prohibited public school teachers from conducting classes in religiously affiliated schools, forced services off site and changed 90 percent of the programs that served private school students. Many lost services, and approximately one-third who lost them have not recovered. Only 11 states have reached pre-Felton service levels for private school students. Because of funding increases for Chapter 1, the number of students receiving services who attend private schools should have increased by about 25 percent over 1984 levels. Only California and Puerto Rico have registered that level of increase.

In 1988, Congress amended ESEA (ECIA) to provide for Capital Expenses that would allow districts to pay the additional costs of providing off-site services to private school students. These funds were important, in that they helped some districts either begin restoration or pay for off site facilities so that the services can be continued. However, there still remain a large number of eligible students who are not being served or are being underserved, and who will not receive full and appropriate services in the foreseeable future unless the Capital Expense provisions are changed, or the program regulations are further adjusted.

The Capital Expense provision needs the addition of priorities, so that the SEA would ensure the first use of funds would be for restoring services to students and that the grant sizes are of sufficient size, even to small districts, to effect restoration. The Department of Education should collect from the states estimates of the amount of Capital Expenses needed to sustain the services that have been restored to private school students. No funds should be available to reimburse districts for past expenditures until all services have been restored in all districts to all students who should be receiving them.

We also support the suggestion of several independent reviews that recommended that the federal government or LEAs experiment with alternative modes of delivering Chapter 1 services to reach more of the eligible students with higher quality services at a given funding level, such as through third-party contractors.

In any case, there is a large and, in many states, increasing number of private school students who qualify for Chapter 1 services but are not receiving them. As a matter of justice, this problem needs correction. If SEAs and LEAs are unable to devise and implement local programs that solve the problem, then the law or implementing regulations need to be changed to permit some alternative modes of service delivery.

5. In preparation for each reauthorization of Chapter 1, Congress has requested a longitudinal evaluation of the program. Each time, Congress has requested or mandated the full inclusion in the study of those Chapter 1 students attending private schools. Although from a rigorous research point of view, such a mandate should be unnecessary, the mandate has proven to be necessary.

6. Since the 1988 reauthorization, Congress and the American education community have discussed a series of education reform proposals that would increase educational standards and opportunities in both public and private schools. The United States Catholic Conference specifically, and the private school community generally, expects to participate in these continuing deliberations with our counterparts in public and other private schools and in Congress. USCC recommends that Congress and the U.S. Department of Education **initiate, as part of the ESEA reauthorization, a broad-based and comprehensive deliberation** about the overall education needs of our nation's youth that would involve all the partners in the education community, public and private schools, teachers, parents, students and the business community.

USCC supports the concept of true and constructive education reform. USCC endorses in general the six national education goals. But virtually every reform contemplated, whether the national goals or a wide variety of suggestions for systemic change, will directly or indirectly impact on private schools and students. Therefore it is critical that the professional experience and expertise of the entire education community, public and private, be involved in all levels of this deliberation, so that there result genuine improvements, implemented to benefit all the nation's young students. We are referring here particularly to efforts to change or improve curriculum, professional standards, student and program assessment, and school readiness, but not limited only to these matters.

7. **Chapter 1 as targeted General Aid**: Several prestigious committees and individuals have recommended to the committee that Chapter 1 be changed:

- that Chapter 1 funds be used to improve the basic education services of an eligible school, for the benefit of all students in the school.
- further, once a school is designated as a target

school, its funding would continue even as its students improve their performance.

- some propose that the services to children be concentrated at pre-school levels and that Chapter 1 funds be used to assist the school to become a more general social service center for the families of school children.

- Some proposals have also called for the federal government to take the lead in reforming local education, through the use of Chapter 1 programs, in areas of planning, needs assessment, involvement of parents, testing, and alternative and integrative curricular approaches. This goal would be much easier to achieve if Chapter 1 services were fully integrated into the basic education program of the school.

In sum, these proposals would make Chapter 1 a program of general aid for selected schools. Since at present Chapter 1 now assists 76 percent of all public elementary schools, either funding levels would need to increase substantially or the number of schools targeted would have to be reduced.

For the private school students, these changes are problematic at best. If the program serves all the students in the impacted public school, it should similarly be serving all similar students in the impacted private school. The number of eligible private school students served would most likely increase dramatically. However, the program for private school students is primarily a pull-out program, and it is not feasible to extend a pull-out program to an entire school. It is also not possible to fully integrate the federal program into the private school's basic program on the model proposed for the public school portion of Chapter 1 for constitutional reasons. We anticipate that, in the event these reforms are adopted, alternative programs would have to be created to serve the needs of eligible students in private schools. The private school community should have a central role in designing and implementing these changes.

About Catholic Schools

Chapter 1 services are provided to students attending about 60 percent of Catholic elementary schools and 15 percent of Catholic high schools. Chapter 1 is an important program of assistance to Catholic school students, and it may be useful to the Committee to have some information about the schools.

Size and Diversity: If the U.S. Catholic schools were considered a system and compared to the states, that Catholic school system would be first in the number of schools operated and approximately tied with New York for third in student enrollment.

Table 1:
U.S. Catholic Schools and the Largest State Systems, 1991-92

	Number of Schools	Rank	Enrollment
Catholic System	8,508	1	2.55 million
California	7,704	2	5.0 million
Texas	5,786	3	3.4 million
New York	3,930	4	2.59 million

[Source: NCEA, Catholic Elementary and Secondary School, 1991-92; NCES, State Reports, 1991-92

Catholic schools are distributed in every section of the country, in inner city, urban, suburban, and rural areas in proportions that approach the distribution of the general population. Catholic schools serve a broad spectrum of the population, including lower income, disadvantaged and minority students. In 1990-91, 23 to 25 percent of Catholic elementary school students were either of black, Hispanic or Asian ancestry, including about .4 percent Native American. In 1991-92, 11 percent of the elementary enrollment and almost 15 percent of the high school students were not Catholic. Minorities accounted for about half the non-Catholic enrollment.

Quality: There is a great deal of research showing the effectiveness of Catholic schools, particularly in the education of the disadvantaged. But we think two indicators make the point: Ninety six percent (96%) of 9th grade students graduate four years later from high school. Eighty-three percent (83%) of Catholic high school graduates go on to college. And few Catholic students holding Catholic high school diplomas require remedial courses at the beginning of their collegiate studies. Professor James Coleman concluded his study of the diversity and effectiveness of Catholic high schools by calling them the true American common schools.

Catholic schools pay attention to such measures of quality as the proportion of students in the school scoring at above average levels on national standardized tests, but these scores hardly measure what we are attempting to accomplish. We are concerned that Catholic school students perform as well as possible, and that their talents not be wasted. But most of all we expect

Catholic schools to prepare each and every student to use the talents each has been given to their fullest capacity, to lead an independent life of service to God and their community.

Finances: Catholic schools are very efficient, and they waste little: we believe that contributes to their success. But they nevertheless are a burden to support. It costs about $7 billion per year to operate Catholic schools, including about $1 billion in non-cash subsidies. Of this amount, $3.2 billion is raised through tuitions, and the balance principally through contributions from parish members and the general public. These schools receive almost no financial assistance from the government. If all these Catholic school students attended public schools, the cost to state and local government would exceed $18 billion annually. An $18 billion increase in state and local taxes would decrease federal tax revenues by $3 to $4 billion.

Public/Private School Partnership: We believe that there are very good public and private schools, and we know that there are some schools that are not performing well. It is in the best interest of our nation that all schools offer all children the best opportunities and resources. We believe that the fact that families have alternatives, and can choose schools is a useful and effective discipline on both public and private schools.

In sum, the public and private systems are not rivals separated by an unbreachable wall as many have suggested. The American people choose schools in both systems. If Congress is to help lead American education, it must involve the leaders of private education in the process, and it should encourage and assist private education to provide the highest levels of opportunity, just as it does public education. And Congress should respect the diversity of our schools. Attempts to help one component of this complex American system of public and private schools at the expense of the others are destructive.

1993 GAO Study: The manner in which LEAs have attempted to restore services has had a significant impact on the degree of success. In a February 1993 report on Capital Funds, the GAO surveyed SEA officials on the number of eligible private school students now served by Chapter 1. It concluded that the states were reaching a high 91 percent of the number served before Felton. (However, the program has expanded 25 percent since that time. Even by the GAO estimates, the program is reaching only about 73 percent of the proportion of private school students served before Felton.) The GAO also asked the SEA officials to estimate whether their state was serving all eligible students in the private schools and, if not, the percentage being served. Only 14 of 52 SEAs believed their states were reaching "almost all" or "all" eligible private school students (i.e. 80 percent or more.) The median response was that the state was reaching half of all eligibles in the private schools.

In sum, there is a serious problem with the underserving of eligible private school students.

Summary Recommendations to Congress

Concerning Education Reform and New Programs

- Maintain the "child benefit" and categorical aid approach in ESEA. If a school based approach is introduced into ESEA, or comes about as part of block granting, then such an approach could only be acceptable if the reform legislation contains specific safeguards to ensure the continued full, equitable and comparable participation in these programs of students attending private schools.

- Private school students and staff should have the opportunity for equitable participation in all appropriate federal programs and services that are available to their public school counterparts.

- Where the specific needs of eligible private school students differ from the needs of the public school students benefiting from a federal program, the program should incorporate sufficient flexibility to provide appropriate services to meet the needs of the private school students.

- Representatives of the private school community should be full partners with their public school counterparts in the planning, implementation and evaluative committees relating to such programs.

- No health care program should be authorized that would require Catholic schools to accept, as a condition for their students' receiving any portion of the health services offered, a total package of health services that might include services Catholic schools might find objectionable.

Chapter 1 Improvements

- All parents should have the opportunity to participate in the consultative process on all program levels.

- Programs and services need to be improved so that all eligible private school students are served in an effective and efficient manner.

- Improve the selection of eligible students by moving from a process limited to the use of norm-referenced tests to a more flexible system such as teacher references or portfolios, etc.

- In local programs in which LEAs have been unable or are unwilling to provide Chapter 1 services to eligible private school students, consider the use of a third party contractor or, as a last resort, some form of parent certificate.

Capital Expenses

- Eliminate the authority of the LEA to use Capital Expenses for reimbursement of prior expenses. Capital Expense grants should only be used to increase the number of private school students served, to improve the quality of services to private school students who are underserved and to sustain the level of existing services to private school students.

- Change the restrictions on the use of Capital Expenses to permit the acquisition of educational technologies that provide for interaction between students and teachers.

- Require a "sign off" by private school administrators on how Capital Expense funds are to be used.

- Require the LEAs to maintain a separate account for Chapter 1 funds used to comply with Section 1017. This account must provide for the carry over of unused funds to the next fiscal year and the LEA should be required to report annually to the SEA and private school administrators on the use of such funds.

Consultation

- Provide in the statute a clear and detailed definition of what the LEA's consultation responsibilities are (e.g. fiscal and program discussion) and what remedies are available if this responsibility is not observed. This consultation needs to include parents [see sec. 1016(a) and 1016(c)(5) as well as EDGAR regulations, sec. 1006.652]. Require the development and use of a mandatory "sign off" form for use by LEAs which includes remedies for failure to use the form.

Other Issues

- Chapter 1 services should be required to begin no later than 15 teaching days after the start of the school year. Any waivers granted by the SEA should require a description of compensating efforts and a sign off by the private school official, acting as representative of the affected students.

- LEAs should be required to formally evaluate the effectiveness and efficiency of the services, and method of delivery of services, to eligible private school students. The information should be provided to the SEA and private school administrators.

- The requirement that SEAs include on their Committee of Practitioners private school representatives should be maintained.

- **Even Start:** Private organizations should be included as eligible grant recipients.

- **Handicapped:** 'Maintain the separation of the Chapter 1 State Agency Handicapped Program from the Individuals with Disabilities Education Act (IDEA.) Also, change the funding formula to reflect the percentage of the total population of disabled children served in each state.

- Provide for staff development as a component of the Chapter 1 program. All teachers in all schools providing basic education to Chapter 1 eligible students should be included.

- **Chapter 2:** Reauthorize without change since it is generally viewed as an effective and useful program for private and public schools.

- **Drug Free Schools:** The Act should be changed to provide that the SEA can apply if an LEA does not (see sec. 1572(a)(2).) LEAs should be required to make all curricular materials used in this program available to private schools.

- **Eisenhower Math-Science:** This program is not reaching private school students sufficiently and the training of teachers in the field needs increased focus.

- **Bilingual Education:** Change the authorization so that it includes sufficient flexibility that the LEA can serve students with limited English language proficiency who are attending private schools, even where their native language or grade levels are different from those of students in the

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public schools.

- **F.I.R.S.T.:** Incorporate EDGAR provisions and other provisions to provide for equitable participation private school students and staff.
- **STAR Schools:** Incorporate EDGAR provisions, particularly to effect the inclusion of private school representatives in the planning and private schools in the implementation of this program.

Chairman **Kildee**. Thank you very much, Sister.

Ms. Brenda Welburn.

Ms. **Welburn**. Good morning.

Mr. Chairman, members of the committee, my name is Brenda Lilienthal Welburn, and I'm the deputy executive director of the National Association of State Boards of Education. I am here in place of Gene Wilhoit, who is the executive director of NASBE, but who is unable to be here today because of illness.

Mr. Chairman, last December NASBE submitted an extensive set of recommendations on the reauthorization of the Elementary and Secondary Education Act to you and to your colleagues, and the full text of Mr. Wilhoit's testimony has been submitted to the committee for the record.

Like other organizations, our recommendations and the testimony we submit today represent a serious effort to incorporate the views and thoughts not only of State board members but of the best thinkers we could assemble to discuss what an effective Federal strategy in elementary and secondary education should look like at the end of the twentieth century.

I don't know that NASBE's recommendations are particularly earth shattering or significantly different than the views expressed by those here today or others who have previously testified before you. But I do know that the world has changed and Chapter 1 has not, I do know that the world has changed and schools have not, and I know that this may be the best opportunity we have had since the beginning of the reform movement to affect the educational experience of our neediest students, and I know that the students who are in school today are very different, have very different needs, and have had very different experiences than the children the original Chapter 1 program was designed to serve. They are more culturally and linguistically diverse, they come from more diverse family structures, they have greater social and health needs, and, unfortunately, they are growing up with a greater sense of despair than the children of 30 years ago.

It is because of these differences that NASBE developed its recommendations for reauthorization with a firm commitment that Chapter 1 and the other programs included in ESEA must be restructured to fit the needs of today's students and targeted to the neediest of those students.

Thus, NASBE's first priority and recommendation for this legislation and for the Federal Government's role in education is equity. Now, more than at any other time in history, the Federal Government's role in promoting equity is critical if we are to succeed in our efforts to set high expectations for every student and to give students the resources they need to meet those expectations. Equity in resources, equity in opportunity, and equity in the value our communities and our Government place upon our children are the basic necessities for school success.

It is fundamentally dishonest to suggest that our country and society values its children if it fails to develop nurturing environments to help all of them grow up with dreams and some hope of achieving those dreams.

The second NASBE recommendation articulates our belief that comprehensive educational and noneducational services must be made available so that all children can make sustained progress from early childhood through the primary years to secondary school and on to apprenticeships or college. This is not to say that schools must provide these kinds of services but the school must and can be a facilitator and a cooperative partner in assuring these services are available to every student who needs them.

The success of the family resource centers and adolescent resource centers that are a key part of the Kentucky reform legislation demonstrates that comprehensive services are feasible, affordable, and central to school reform.

Third, NASBE believes there is a need to restructure and reform schools to focus resources on the diverse learning styles and needs of all students and to build on the strengths each child brings to the classroom. Every low-achieving child does not have a learning disability, a bad attitude, or a disinterested or unengaged parent. There is a wealth of knowledge available to us on how to improve the academic achievement of students, and yet that knowledge is not being used to improve the performance of students.

I can think of no other profession, industry, or discipline in this country that spends money on research and then fails to disseminate and incorporate the findings of what works to improve and enhance their product, but that is exactly what happens in education.

There is a body of knowledge that speaks directly to the issue of culture and performance, there is a body of knowledge that speaks directly to differential learning and thinking styles among all children, and there is a body of knowledge that speaks to strategies for improving the educational experience of all children. What prevents schools and teachers from incorporating these findings into practice is the absence of coordinated dissemination of research and accompanying comprehensive staff development strategy and, more significantly, limited support for real—and I emphasize real—systemic school reform.

Restructured schools will look different from the majority of schools that exist today, and it will take political willpower and good public relations to make school reform a reality, political willpower because there are competing needs and constituencies for limited dollars, and public relations because the public must understand that schools will not reflect the educational experiences of their past.

NASBE believes that schools should be restructured to eliminate tracking, ability grouping, and student segregation. The way we organize the building, the school day, and the school year should be open to evaluation and modification to meet the needs of students. Ensuring enrichment opportunities for every child, not just those who are classified as talented and gifted or whose parents can afford to give them enrichment opportunities, must be a part of the restructured school. This legislation can and must be the linchpin for sustained school reform.

Finally, our recommendations address the need to train teacher candidates and retrain practicing teachers to teach today's student population in that restructured school system. All across this country there is a consensus that the American worker needs to have new kinds of skills and capabilities. Teachers are a part of the

American workforce, and teaching is not a job that anyone with a college degree can simply walk into. The need for subject matter, pedagogical, and cultural competency for teachers should not be underestimated in the retraining of the American workforce.

There are new findings and practices that should be integral to in-service and pre-service training. In addition to multiple instructional strategies, teachers must learn how to effectively integrate the use of technology in instruction. A computer in a classroom is useless if it is simply a high-tech ditto sheet or a substitute for Scantron.

Mr. Chairman, two-thirds of the States have established new performance standards for their students. Ensuring that every student meets those standards is a moral, political, and economic necessity for the twenty-first century. It will require new partnerships and new visions. NASBE and State board members are energized by the challenge and look forward to working with you to help achieve them.

Thank you very much.

[The prepared statement of Mr. Wilhoit follows:]

Testimony of Gene Wilhoit
Executive Director
National Association of State Boards of Education
before the House Subcommittee on Elementary, Secondary and Vocational Education

March 18, 1993

Mr. Chairman and members of the Subcommittee, my name is Gene Wilhoit and I am executive director of the National Association of State Boards of Education. The State boards of education are composed of citizen leaders who have overall responsibility for education policy for forty-nine states, the territories and the District of Columbia and for more than 40 million elementary and secondary students in our public schools.

NASBE and the state board members it represents have long believed that schools and our education system must undertake fundamental changes if we are to succeed in educating our children. These changes include the ways schools are structured, what students learn and how, the way outcomes are measured, the governance structure of education, and effective partnerships with parents, business and the community. Change is required at all levels, including the Federal level.

In the past decade, we have witnessed an outpouring of criticism about our education system, much of which is justified. We have also seen an unprecedented willingness to transform the delivery of elementary and secondary education. For it is clear to all that schools have not kept pace with the changing world. In every area -- classroom instruction, professional development -- it has become outmoded. Schools continue to operate as we designed them, modeled on a factory economy. Today's highly complex, high tech, diverse world is poorly served by classrooms more suited to the early 20th century than the 21st century which is fast approaching.

Federal leadership in education reform is critical. These reforms will require new and different investments, but they will pay off for all of us.

Last December, NASBE submitted to this Committee its specific recommendations for the reauthorization. Those recommendations form the basis of my testimony today. The elements for improving school performance and reducing differential achievement of all students fall into four basic categories:

First, there must be renewed federal leadership in ensuring equity in education. Equity means doing what is necessary to assure that all children to meet high academic and social competence standards.

Second, we must create a system of coherent delivery of comprehensive education and non-education services at or near schools. These supportive, integrated services must be available in early childhood programs and in elementary and secondary schools. The services must be tailored to the needs of students and their families.

Third, we need to restructure and reform schools in order to focus resources on the diverse learning styles and needs of every student. School restructuring should include a new and different organization of school staff, new uses of curricula and materials, new assessments, and new forms of accountability.

Fourth, we need to train our future, new and current teachers and administrators to teach today's diverse student population in a restructured school system.

1. Equity

James Carville, campaign manager for President Clinton, focused the campaign staff with a simple phrase: It's the economy stupid." I would advise a similar slogan for the Congress and the Department of Education as we work our way through this reauthorization. "It's equity." It's equity in terms of high expectations for all.

Chapter 1 was created in the mid 1960's as a component of the War on Poverty. Low income and educationally disadvantaged children would receive federal support to enable them to succeed in the public schools.

The world has changed and Chapter 1 has not kept pace with those changes. The world has changed technologically, economically, culturally and socially. Communities of color have grown in number, in diversity and in complexity. But schools have not moved forward to meet the new changes and challenges, especially for poor children.

At worst, we have taken the abilities of some children for granted and blamed other children for our failures to educate them. Every low achieving child does not have a learning disability, a bad attitude, or uninterested and disengaged parents. The sooner the system understands that, the sooner we will be able to significantly reverse differential achievement.

It is imperative that we overhaul Chapter 1 so that every child has a real opportunity to learn, to think critically of the world, and to have the knowledge and skills to make good decisions. This will not be a cheap enterprise. The federal government has a moral and an economic obligation to put our poorest children at the head of the line for limited federal dollars. In return for these resources, we must demand that schools set the same high standards of all children. The negative labeling and segregation of students should be abandoned in favor of better instruction responsive to each child's learning style and needs, whether these result from different cultural and linguistic heritages, special education needs, or poor preparation for school.

The fair allocation of funds is only one element of what we mean by equity. Real equity will be achieved when every child has qualified, well-trained teachers who can effectively teach children who have limited English proficiency, are disabled, bring cultural diversity to the classroom, and the effects of living in low income homes. Real equity means that every school is safe, habitable and a nurturing environment. Equity also means that schools and their staff have the flexibility to make decisions so as to best serve the needs of their students. These decisions will range from discipline, the organization of federal, state and local funds that serve similar purposes, to the creative uses of the school building, school year and school day.

2. Coordination of Comprehensive Services

One in five children in America is poor. Many are hungry, homeless, lack adequate health care, or need family supportive services. While we have created a wonderful comprehensive program called Head Start, we have failed to continue the successes of comprehensive, integrated services programs for children in their elementary and secondary school year.

Part of reforming schools necessitates new roles and responsibilities for schools. At a minimum, schools must assure that someone or some organization is tending to the health and social, parenting, and family support needs of children. Schools must be facilitators and cooperative partners in this endeavor.

In 1988, NASBE published Right From the Start, a report of our Task Force on Early Childhood Education. A year before the President and the Nation's Governors made school readiness for every child the first national education goal, NASBE urged public school, early childhood education and state policymaking leaders to find new ways for public schools to complement and supplement the efforts of other early childhood programs in serving preschool children and their families. Such programs would respond to the comprehensive needs of children for health, child care, social and emotional support, nutrition, and language development. Programs would actively involve parents. The curriculum and school environment would reflect cultural

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diversity as a strength.

Three years later, we appointed the National School Readiness Task Force which was chaired by President Clinton. Building upon the earlier report, Right From the Start, we took a look at how to improve school readiness and how public schools could improve the way in which they work with young children and their families.

The recommendations of the Task Force were published in Caring Communities. As envisioned by the Task Force, A Caring Community mobilizes public, private and voluntary efforts to provide comprehensive support for young children and their families. The recommendations for public school support of young children and families found two serious flaws in the early years of elementary school: first, schools use inappropriate assessment and teaching practices, and second, they lack comprehensive services for children and families.

Therefore, NASBE recommends that local school districts that receive Chapter 1 use at least 5 percent of the funds to create Caring Communities. Schools would collaborate with other health and social services providers as well as with other local early childhood program providers to coordinate the transition from comprehensive early childhood programs to elementary school and to continue providing comprehensive services to children through grade 3. The menu of services would be determined by the local community. These services must be linked to strong community and parent involvement, staff development, and developmentally appropriate practices.

We must to pay more attention to the comprehensive needs of adolescents as well. NASBE suggests a new title, called Comprehensive Services for Healthy Youth to replace the current Drug Free School Act language. The war on student use of alcohol and drugs is linked to a mix of other health and social factors that must be addressed in a comprehensive fashion and not in a narrowly defined program. Adolescents require more attention as they face increased and often intertwined risks of violence, sexually transmitted diseases, including H.I.V., unwanted pregnancy, substance abuse, and depression.

As a result of our work with the American Medical Association on the National Commission on the Role of the School and the Community in Improving Adolescent Health, NASBe published a report entitled, Code Blue: Uniting for Healthier Youth. In it, NASBE and other members of the Commission issue a warning similar to a medical code blue: there is a life-threatening emergency facing our adolescents which requires extraordinary actions to save them. The health problems consist of AIDS, teenage pregnancy, serious emotional problems leading to high suicide attempt rates, substance abuse, violent behavior. The affect on education is equally devastating. Sick, depressed, pregnant teens are more likely to drop out of school or to attend irregularly.

Code Blue specifically calls on schools to take an active role in the solution. It asks schools to enlarge their traditional academic role:

> "Schools should recognize that they can only accomplish their education mission if they attend to students' emotional, social, and physical needs. Schools should become far more personal institutions and more positive learning environments that engage adolescents' interest and motivate them to achieve their potential. They should offer students a new type of health education that provides honest, relevant information and teaches skills and strategies to make wise decisions and develop positive values. They should assure schools are smoke free, drug free, and violence free, and promote the emotional and physical wellness of students and staff. They should make arrangements for students to receive needed services, increasing their own service capacity and establishing collaborative relationships with external agencies:

NASBE urges that the majority of the funds go to the frontlines: the schools. Schools should form partnerships in which they assess the community needs to strengthen adolescent health and social competence, plan together how to address those needs, and work collaboratively and with coordinated programs and funding streams to provide the programs that will make a difference. Part of the solution for a community may be a school-based like the successful parent resource and youth resource centers in Kentucky. In another state or community, the best option may be to coordinate with an existing community health provider. The most important aspect of any plan is that it organize services around people and not people around services.

3. Systemic and School Reform

Broad based Systemic reform as well as school reform is important to improved student achievement. Reforms should lead to greater outcomes for all children.

A. Systemic Change

NASBE believes that Chapter 2 should be redirected so as to drive systemic reform and restructure schools. Chapter 2 resources should be used by states to develop standards, curricular frameworks and multiple assessments for all students; by state and local education agencies with resources for promising education programs to meet the national education goals and promote enrichment activities that enhance opportunities for learning; and by schools to restructure their activities.

States are strong leaders in education reform when they provide technical assistance and information networking opportunities between and among local school districts. Two thirds of the states on the forefront of systemic reform, including the development of standards, curricular frameworks, student and program assessments, and redesigned teacher certifications.

B. School Reform

Last year, NASBE testified before this Committee on restructuring education. The points I make here today are basically the same. Real changes are needed in the ways schools are organized. Restructured schools look different from the majority of schools that exist today. It will take much political will power and good public relations to make school reform a reality.

There is no single model for restructured schools because a restructured school reacts to the needs of its students. There are some common elements such as, the elimination of tracking and ability grouping, use of cooperative learning, team teaching, creating inclusive classrooms for special education and general education students, and consistent requirements of high standards for all students. We have a large body of research that tells us that the process of young children necessitates a different class structure and ungraded primary programs are showing very positive outcomes under the Kentucky reform initiative.

Strong state leadership is necessary to school reform. States are setting longterm and comprehensive goals for education. They are setting standards for students. They set policies that affect every grade, such as teacher licensure and training, curriculum, and assessments.

Schools need to emphasize student's ability to think critically, master knowledge about broad principles in all disciplines, and solve problems. Teachers should use varied instructional approaches. Cultural diversity should be strength and not a weakness in teaching. School day and year should be used in different ways, depending on the pedagogical goals. The way we use technology must be part of a strategy and teachers must be trained to use it appropriately. There should be flexibility for interdisciplinary teaching, team teaching, and inclusive classrooms that use the abilities of general and special education professionals. Enrichment activities and learning outside of school are critical to the learning that goes on inside school.

C. Special Education

In particular, I want to stress that the education reform movement must look at special education as a part of the reforms at every level. NASBE has been on the forefront of a movement demanding inclusive system of education. Recently, we published Winners All: A Call for Inclusive Schools. In an inclusive system, special educational services are provided as a support to students in order to achieve outcomes expected of all students. General education and specialized services complement and support each other. Instead of labeling and segregating children, we emphasize improved instruction. As with all school reform and systemic changes in education, we need to address how teachers and other personnel are prepared and kept abreast of new practices, classroom environment, and varied approaches to instruction and school resources.

To accomplish this new restructured school, we need to give schools decisionmaking powers. Decentralized decisionmaking, the process of shared authority in which school personnel have more say over decisions that affect the school, ensures schools are more responsive to student and community needs.

4. **Teacher Training**

After many years of thoughtful research, we know that every child doesn't learn in the same way. Yet in many schools, we continue to teach children in the same ways. New, current, and future teachers need the skills to maximize differential learning

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and thinking styles among all children. There is an array of research that provides strategies for improving the educational experience of children of color, physical and mental disabilities, and with social competence problems. What prevents schools and teachers from incorporating this knowledge into practice is the absence of a comprehensive staff development programs, accompanied by a coordinated dissemination of reach, which is tied to real systemic reform.

NASBE recommends that at least 10% of Chapter 1 be used for school-based professional development that is tailored to the needs of particular teachers in a given school. Currently, many states and local districts evaluate their professional development effectiveness in terms of the amount of traditional "in service" they provide teachers. These one-shot "dog and pony" approaches provide teachers with short term, base level, information absent the school context and other reform or development efforts. Schools should be able to use funds to contract with nonprofit private and public entities with experience in teacher training, and to provide future, new and current teachers with the opportunity to work with master teachers or other teacher training professionals so as to develop the best teaching programs for their particular students' learning needs.

Conclusion

Mr. Chairman, the National Association of State Boards of Education believes that federal leadership can make a significant impact on the education of our children and youth. We submitted to you last December more detailed legislative suggestions for improving student achievement and we look forward to working with you over the coming weeks and months to crafting federal legislation that will ensure that all children will have been assured an equal opportunity to meet high expectations of academic achievement and social competence.

Chairman **Kildee**. Thank you very much.

Dr. Stephens.

Mr. **Stephens**. Thank you, Mr. Chairman.

I, too, appreciate the opportunity to be here today to speak to the committee about the special needs of the Nation's still large number of rural school districts. I think I appreciate and I believe rural interests across this country appreciate the fact that you also sense the importance of consideration of the needs of rural school systems as you ponder how best to make the Elementary and Secondary Education Act more effective.

In my written testimony I have taken somewhat of a different tack. However, there are four things that I attempt to do in the written testimony. One is to defend, if necessary, the fact that rural school systems in this country are important and failure to consider their needs will doom even the most meritoriously crafted school reform initiatives that might be considered; then profile briefly the most pervasive issues that confront these districts, that serve in rural communities, that these issues are likely, in my judgment, to hamper their ability to serve adequately the needs of both disadvantaged students and that stand as obstacles in the achievements of the national education goals.

The third point that is addressed in my written testimony is a brief argument that desperately needed Federal assistance programs that should be targeted—indeed, must be targeted—on the huge problems facing urban systems not be done at the expense of the equally compelling need to provide assistance to rural school systems; and then, finally, provide another endorsement to the Rural Schools of America Act that was introduced in the last session.

In these oral comments then, I simply would like to highlight some of the points about each of those four topics. The first is the significance of rural school systems. We now have, in my judgment, one of the most definitive, defensible ways to calculate the number of rural school districts in this Nation, and what those new data suggest—and these will be contained in a report that the Congress mandated approximately 3 years ago, The Condition of Rural Education; I believe the intent is for that report to be released this spring.

What these new calculations establish—and I want to stress, they are conservative estimates—is that rural school districts represent nearly one-half of the approximately 15,000 public school districts in this Nation, one-half. That is an impressive number. Rural schools, as opposed to rural districts, represent slightly one of four of the Nation's approximately 80,000 schools. These school systems enroll slightly less than one of eight of the public school enrollment, and they employ slightly more than one of eight of the public school staff. The number, of course, of rural school systems in individual State school systems is even more impressive.

I cite those data because the interest certainly and knowledge about the institutional capacity of rural systems to serve disadvantaged students and to meet the expectations of the national education goals and other rising expectations for education is of paramount interest, and in my written testimony some of the points that are emphasized deal with fiscal characteristics of rural school systems.

If one were to use one of the conventional measures of fiscal support from local communities, cost per pupil, one might conclude that rural school systems are not paying their fair share. However, if one were to use fiscal effort, I believe the data would suggest that rural communities, many of them, provide greater fiscal effort in support of education than do many urban systems, and especially many suburban systems.

Most State aid formulas in this country either assume or mandate that there be some local contribution, and it is these local leeway funds that are the source of much of the difficulty facing rural systems in the socio-economic trends that have impacted many parts of rural America over the past decade especially. While some of these are cyclical and represent long-term patterns, others are new, and I would suggest that the fiscal capacity—no matter what the fiscal effort is of rural communities, the fiscal capacity of many rural communities in this country is a source of serious concern about their ability to offer even minimal programs.

With regard to their staffing and programming characteristics, I identify a number of these in the written testimony. What I would perhaps like to stress here—and I expect many people are very knowledgeable about the profile that is contained in the testimony—the significant point is, I believe—one significant point is that many of the instructional support systems that are important to the health and performance of school systems—rural, urban, suburban, or whatever—many of those instructional support systems are lacking in rural communities, especially access to comprehensive social services that are either school-based or community-based.

Moreover, rural schools have limited instructional equipment and, importantly, lack specialized instructional facilities especially for the national priorities in science and mathematics.

With regard to the outcomes of rural schools, while I expect rural interests might take some comfort in the fact that rural students now—their performance on the latest NAPE data suggests that students enrolled in rural schools perform at or near the national norms. I'm not sure that that is necessarily anything to get too excited about, but, in fact, it does represent progress. However, there are some important limitations on anybody that might get excited about that. The minority enrollments in rural schools continue to lag substantially behind even the minority performance of minorities in urban systems.

Well, so much for the profile. Let me now briefly deal with the issue of what I think—while some might not want to talk about the issue, and I certainly don't like to talk about it, I think it is regrettable, but, nonetheless, there is emerging in this Nation, in my judgment, a competition between urban and rural systems, and that is both unnecessary, in my mind, and unwarranted.

I want to establish and stress, clearly stress, that unless we solve the problems facing urban school systems—urban school systems—that this will prove to be so damaging to the national interest and there isn't anything I would want to do as a supporter of rural schools to lessen that emphasis, to lessen the commitment to solve those urban problems.

My point in the brief testimony is that we can focus our attention, it seems to me, on those huge problems in urban school systems and do so not at the expense of the equally compelling needs in rural education. As you well know, it is in the construction of the formulas, what variables are included in formulas, where unnecessary competition or unfair treatment is reflected, and my thesis is, we know enough about our knowledge base on the presence or absence of a rural bias or an urban bias in the use of different factors in formula construction, we know enough about that, there is a sufficient knowledge base out there, that we ought to keep those kinds of errors to a bare minimum.

Finally, I would like to conclude briefly with another endorsement of the Rural Schools Improvement Act. Last November, Mr. Dale Lestina provided testimony in support of this Act, and he correctly identified the many ways that this Act would assist rural school systems in improving their educational opportunities and in addressing the widespread problem of inadequate physical facilities found in many rural school systems.

However, I would like to stress two other points that I believe are essential, and both of them are contained, of course, in the bill, and why I am excited about this bill.

First, I applaud the designation—the bills call for the designation of an assistant secretary for rural education in the Department of Education because I am convinced, based on my own work, that this move, the designation of an assistant secretary at that level, a senior level, is probably the only way to assure that the needs and interests of rural education are represented in a timely and consistent way in the Department's deliberations.

There is a need, in other words, for an advocate, somebody who can say, and remind whoever needs to be reminded, that half of the school systems in this country are rural, and, if for no other pragmatic reason than if you want your program to succeed, then you had better pay attention to the unique problems of those systems and not ignore them, as in my judgment has been the case historically.

Moreover, there is a need in the Department for someone to argue that it simply does not make any sense to continue the traditional practice of defining "rural" in the numerous ways that it is defined presently in the Department. I know of no compelling reason, no overriding rationale that I can think of, that outweighs the difficulties created by this current practice.

Moreover, I think a senior level rural education advocate in the Department would clearly enhance the Department's ability to bring about collaboration and successful duration to activities in other departments and independent agencies who can contribute and who have a mission in serving rural America, and here I am not making too much of a distinction, nor do I believe there should be too much of a distinction, between aiding rural schools and aiding and assisting the huge problems facing rural America.

The second feature of the Rural Schools Improvement Act that I would like to briefly address and have briefly addressed in the endorsement of the bill's call to strengthen the role of the regional laboratories. In my view, the regional laboratories in this country, the 10 regional laboratories, represent probably the best resource we have in this country at the present time to address the problems of rural school systems.

When the Congress 5 years ago initiated the rural initiative and placed the responsibility for this activity in the regional laboratories, it did more to raise the visibility of rural problems. Some of the very best thinking, in my view, about problems in rural education and the nature of those problems and solutions to those problems are coming out of the laboratories, and any effort that is made to strengthen that initiative will pay handsome dividends.

Thank you.

[The prepared statement of Mr. Stephens follows:]

E. Robert Stephens, Professor

Mr. Chairman and Members of the Committee:

I am Bob Stephens and I am here representing the National Rural Education Association. I have been a member of the Association for approximately thirty years and served as its president in the early 1970s. My first public school experience was as a history and government classroom teacher in a small rural school district in Iowa in the early 1950s. My first public school administrative experience was as a superintendent of schools in a small, 700-student, rural district in Eastern Iowa, also in the 1950s.

I appreciate the invitation to address the Committee on the need to include consideration of the special problems and issues confronting rural systems as you develop plans for the reauthorization of the Elementary and Secondary Education Act. Your inclusion of this perspective should be of comfort to rural interests. Among other benefits, it signals that you fully understand that, despite huge reductions in their number over much of this century, rural school districts continue to be an important part of public education in this nation.

I will attempt to do four things in this first part of today's testimony:

- initially, defend what was suggested a moment ago when I indicated that rural school districts are without question a significant component of the public school universe in this nation

- then, briefly profile some of the most pervasive issues confronting districts that serve rural communities that hamper their ability to serve adequately the needs of disadvantaged students, and that stand as obstacles in the achievement of the national education goals
- then, briefly argue that the desperately needed federal assistance programs that should be targeted, indeed, must be targeted on the huge problems facing urban systems not be done at the expense of the equally compelling need to provide assistance to rural districts
- then, conclude with an endorsement of the Rural Schools of America Act of 1991 (H.R. 2819).

THE SIGNIFICANCE OF RURAL DISTRICTS

One way to establish the significance of a sector of public education that I believe would be acceptable to most is to use three common measures of the relative importance of that sector: the number of districts that should be regarded as rural, the number of students these systems enroll, and the number of staff they employ.

The most reliable data available on these three measures are contained in the soon-to-be-released report, The Condition of Education in Rural, Small Schools, the Congressionally-mandated report in preparation by the U.S. Department of Education. One of the chapters of this document will report on the work of Bill Elder, a rural sociologist at the University of Missouri, Columbia. Elder's work is without question the most definitive effort thus far undertaken to establish the number of rural districts in the nation. His calculations are that in 1989-90:

- Rural districts represented nearly one half (47.2 percent) of the nation's approximately 15,000 public school districts.
- Rural schools represent slightly less than one fourth (23.3 percent) of the nation's approximately 80,000 schools.
- These rural schools and rural districts enrolled slightly less than one of eight (11.5 percent) of the nearly 40 million public school students.
- These districts employed slightly more than one of eight (13.4 percent) of the 2.2 million public school staff.

The number of rural districts in many state systems of elementary-secondary education is of course even more impressive. Elder's calculations for individual states are included as an appendix. Elder's breakthrough work should also put to rest a number of old myths about the location of rural districts. One of these is that rural systems are only located in nonmetropolitan counties. In fact, a substantial number are to be found in metropolitan counties as well. Perhaps one of the most dramatic examples of this is in the case of New Jersey, one of the most urbanized states. More students attended rural schools in this state in 1989-90 than was true of Montana, one of the most rural states. The New Jersey rural students are not counted as attending rural school in many federal government reports that classify counties as either metropolitan (urban) or nonmetropolitan (rural). This long-standing county classification system, though useful in many cases and perhaps even necessary in others, understates the magnitude of rural districts and rural students.

Fortunately, the release later this spring by the National Center for Education Statistics of the Congressionally-mandated "School District Mapping Project" will provide the most powerful analytical tool ever available to the policy and research communities for better describing the public school universe. This project will not only provide accurate geographic descriptions of each public school in this nation, but will also include more than 200 tabulations on socioeconomic and demographic data for each district drawn from the 1990 decennial census. It is a wonderful effort and the Congress and NCES are to be commended for achieving this breakthrough.

A BRIEF PROFILE OF MAJOR ISSUES IN RURAL EDUCATION

What can be said about the institutional capacity of rural districts to serve disadvantaged students and to meet the expectations of the national education goals and other rising expectations for education? Attempting to profile the nearly 7,500 rural systems in this country is of course complicated by the great variations present in these systems. Though small enrollment and low population density are the defining features of most such systems, great diversity also characterizes these systems. Indeed, it can be argued that the diversity present in rural systems is greater by far than is true of urban or suburban districts. While acknowledging these complications, it is still possible and useful to establish general tendencies in the makeup of the majority of rural districts.

The brief profile that I have constructed for use here today stresses a number of indicators that are judged to be significant gauges of the health and performance of rural systems. Moreover, special attention is given to those indicators that most would agree are either important determinants of a district's ability to address the needs of special populations of students, or stand as evidence of the difficulty of districts to address the needs of special populations of students.

Fiscal Characteristics

Much has been written about the conflux of both national and international socioeconomic forces that have caused severe difficulties for nonmetropolitan regions of the nation for much of the past decade. These of course have had negative effects on the ability of many rural communities to support education. The higher-than-average unemployment rates in nonmetropolitan areas, higher poverty rates, and population losses, especially in manufacturing-dependent, agricultural-dependent, and mining-dependent nonmetropolitan counties have diminished the fiscal capacity of schools serving these regions.

Most state aid programs to local districts include a requirement of a local contribution that is either assumed or mandated by the state. Moreover, most states permit local districts to raise additional revenue, and it is these local leeway funds that are the source of much of the difficulty facing rural systems. Most observers agree with the assertion of Richard Salmon, a finance specialist on the faculty of the University of Virginia, that it is the inability of low fiscal capacity districts to raise sufficient local revenue that is one of the primary contributing factors to the fiscal disparities that face rural districts. Furthermore, rural districts, like their counterparts elsewhere, increasingly must compete with other services provided by local governments for shrinking local tax support. These developments suggest that the ability of many rural systems to support the new, clearly needed, yet more demanding expectations of education is problematic.

Before leaving this topic, one more point should be raised. This has to do with the widespread myth that rural communities tend not to provide comparable fiscal support for education. It is true that on one measure of fiscal support, expenditures per pupil, many rural communities do not support education at a level comparable to other areas, especially suburban communities. If fiscal support is defined, however, by the much more defensible measure of fiscal effort (the relationship between total expenditures from local sources and local tax capacity) put forth to raise the local share of expenditures for education, then rural communities tend to provide greater support for education than is true of many urban and (especially) suburban areas.

Moreover, the investment in education by rural communities is perhaps even more remarkable given the arguments advanced by some rural interests that rural areas seldom realize an economic return from this investment by virtue of the fact that a majority of rural students leave their communities upon graduation. Thus, it is the receiving communities who benefit from the rural communities' investment. While this line of argument, if extended, has serious limitations, it nonetheless cannot be dismissed out of hand as the baffling of biased rural advocates.

Programming and Staffing Characteristics

Concerning the important issues of programming and staffing, there is a body of literature that supports these tendencies in the workings of rural districts:

- They offer a core program at the elementary level (though fewer offer enrichment programs).
- Their high school programs, especially those of the very smallest schools, tend to lack breadth and depth, especially in the sciences, mathematics, and foreign language fields, and fewer offer advanced placement courses.
- They tend to have more limited instructional support systems for their students, especially for those at risk; these limitations include access to comprehensive social services, either school-based, or community-based.
- They tend to have more limited instructional equipment and lack specialized instructional facilities.
- They tend to experience more difficulty in the recruitment of qualified teachers in science, mathematics, and foreign language, resulting in more rural teachers teaching in areas outside their fields of preparation.
- Rural teachers tend to have less experience and are less likely to have advanced degrees in their teaching fields.

- Access to staff development opportunities is also more limited.

Distance learning technologies have of course enriched both the programming and staff development opportunities of some rural systems. This promising development, however, still has not affected a sizeable portion of rural schools. The promise of tomorrow's faster, less costly, and more powerful new information-age technologies has the potential for radically changing the programming and staffing profile outlined here. For the most part, though, it remains largely a promise.

Moreover, and importantly, even with the constraints many rural systems currently operate under, there is support for the claims of rural interests that many rural systems exhibit programming and staffing features that are on everyone's short list of the characteristics of effective schools: more time on task, smaller class sizes, a greater consensus on the mission of the district, and a more supportive school climate. These important goals are the centerpiece of many of the reform proposals launched in this country over the past decade.

Student Outcomes

It seems abundantly clear that one of the most pronounced shifts in the school reform movement is the recent absolute insistence by state and federal policy communities and the private sector that outcome measures be given greater emphasis in the development of indicator systems that are to serve as important gauges of the performance of school systems. So the question of how well rural schools measure up on outcome indicators is a critical one.

In the profile that is being sketched here, I will stress four outcome indicators: two student achievement measures, one student participation measure, and one post-school measure. All four enjoy widespread support, and without question represent meaningful gauges of the performance of a school district. The information summarized here is included in the previously mentioned forthcoming U.S. Department of Education's report on The Condition of Education in Rural, Small Schools.

The two student achievement measures have to do with the performance of rural students on two national assessments, the National Assessment of Educational Progress (NAEP), and the National Educational Longitudinal Study of 1988 (NELS:88).

With regard to the NAEP assessments:

- The scores of rural students are now consistently comparable to the national mean proficiency levels, and have been for over a decade.
- The scores for "extreme rural" students, while generally higher than of the "urban disadvantaged" group, were lower than the "urban advantaged" group.

With regard to the NELS:88 assessment:

- "Rural" eighth-grade students scored at or above the national average in all four subject areas tested.
- "Rural" eighth-graders scored higher than "urban" students on all four levels.
- However, rural students scored significantly lower than "suburban" students on all four tests.

The one student participation measure cited here has to do with the rate of success rural schools achieve in graduating students:

- The dropout rate of rural students is generally below the national average, comparable to suburban students, and substantially better than urban students.

- The completion rate of rural students who do not graduate with their class but complete their high school education at a later date, however, is not as promising (it falls behind the suburban rate, and the previous advantage over urban is reduced); this latter trend may well be a function of the lack of access to high school equivalency programs in rural areas.

- Regional differences in rural dropout rates are significant; they are lowest in the Northeast, Midwest, and West, and are highest in the South.

- A troubling pattern is evident concerning rural minority students in that fewer rural Blacks and rural Hispanics 25 years of age or older had completed four or more years of high school than is true of their metropolitan counterparts.

The fourth and final outcome measure cited here has to do with participation rates in post-secondary schooling:

- Significantly fewer rural than urban or suburban students attend at least one term of college during the immediate four years following high school graduation.

- The college persistence rates of rural high school graduates, however, while below that of suburban students, is comparable to that of urban students.

- Importantly, there is little difference between the college persistence rates for rural and nonrural graduates when socioeconomic status (SES) is considered.

Few would argue that SES should not be accounted for in an analysis of post-secondary participation rates. Moreover, the relatively good showing of rural graduates is perhaps even more remarkable given the fact that they tend to take more vocational

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courses and less coursework in the sciences and mathematics. Additionally, the effect of the aspirations of rural graduates is another important determinant of participation rates. There is a considerable literature documenting the existence of a significant disparity in the aspirations of rural and urban youth, although the reasons for the lower aspirations of rural youth are not fully understood, as Emil Haller of Cornell University has correctly cautioned.

AVOIDING UNNECESSARY URBAN-RURAL COMPETITION

Earlier I went on at some length to establish the continuing significance of rural districts and I did so for two principal reasons. On the one hand, it has been my experience that the numerous omissions of adequate consideration of rural education in many recent policy deliberations is in part due to an apparently widely-held myth that holds that rural systems are no longer of major import because their numbers are now inconsequential. It should be clear that this is not the case. It should also be clear that the achievement of the national education goals, and other federal initiatives to increase access of disadvantaged students, no matter how meritorious, are likely to fall well short of their mark if they fail to consider the institutional capacity and issues confronting nearly one-half of the public school districts in this nation.

The second reason for establishing the significance of rural systems has to do with the hope that doing so might contribute to stemming a trend that I find both disturbing as well as unwarranted. The nation's attention is justifiably focused on the huge, complex, and interrelated issues in urban education. The crisis in urban education is real and will prove to be damaging in countless ways to the national interest if comprehensive, integrated, and cohesive federal and state assistance programs are not forthcoming.

I acknowledge the urgency of federal assistance to urban schools. What is troublesome, though, is that some would do so, either wittingly or unwittingly, at the expense of rural systems. It is troublesome for two principal reasons, one pragmatic, the other philosophical.

On the one hand, it does not make for good public policy to ignore or lessen the importance of a class of systems that represent nearly one half of all school districts, that affect the life-chances of an impressive number of students, and where the problems are equally complex. Moreover, and importantly, framing an issue as either favoring urban or favoring rural at the expense of the other would violate one of the most cherished centerpieces of this country's rich tradition in public education -- the deep commitment to the concept that the accident of geography shall not be tolerated as an important determinant of the educational opportunities available to America's children and youth.

How, then, can federal assistance, especially that included in the big-ticket formula programs targeted on special populations of students and the disadvantaged student, be place-neutral? Or is this utopia state really possible? Probably not, but there is a body of literature that can help reduce errors to a reasonably acceptable level. For example, there are guidelines that can assist in guarding against the unwitting inclusion of formula factors having either a demonstrable urban bias, or, to be equally avoided, a demonstrable rural bias.

I stress the technical features used in the construction of formulas because it is in the choices made concerning what measures are to be included in a formula to establish need, how these are to be weighted, the use of eligibility requirements, and other technical issues that can either inhibit or promote the intent of Congress.

Several of these guidelines that perhaps relate most directly to the issue of the avoidance of an unnecessary and unwarranted urban-rural competition cited below have been drawn from a recent report by Richard Reeder, an economist at the Economic Research Service, U.S. Department of Agriculture, who examined the presence or absence of an urban or rural bias of a number of economic, social, and fiscal indicators commonly used in the formula programs of Federal agencies:

- Because both rural and urban places that are most vulnerable to recent economic difficulty are also those with the least fiscal capacity to support services, an increasingly popular approach in formula construction is to target aid to distressed places, rather than exclusively to people in need. The addition of fiscal capacity measures to need-based formulas will thus assure that Federal funds will go to distressed places most in need.

- Per capita income, while certainly one of the most comprehensive measures of economic well-being, is commonly believed to generally have a rural bias; however, there is not at present empirical evidence to support this assertion, primarily because of the lack of comparable local area cost-of-living data.

- While overall poverty rates are higher in nonmetropolitan counties than metropolitan counties, the poverty rates for urban central cities, as opposed to metropolitan counties, is also relatively high.

- The most important currently-used indicator, population size, is biased against low-density rural areas where services to the needy cost more per unit due to diseconomics of scale in service delivery; however, this measure can also be biased against a large central city where service delivery rates are also higher.

- The use of fiscal effort measures (generally defined as local taxes as a percentage of local income) tend to have a rural bias for low-density areas having a relatively high effort for support of public services (as many do, all except the very poorest rural areas, of course); however, many large central cities collect substantial taxes from outlying areas, and where this is true, fiscal effort measures tend to have an urban bias.

One point that is being attempted to be made in this overview is that great care must be exercised in the construction of formula programs targeting disadvantaged students and the districts where these students are enrolled. Disadvantaged students and distressed local school districts are to be found in both urban and rural areas (and increasingly in the fringe districts surrounding some large urban cities as well!). Our present knowledge base is sufficiently adequate, and the expertise is available to design formula programs that will pass the tests of effectiveness, equity, adequacy, and responsiveness to the needs of disadvantaged students and districts no matter where they live. At a minimum, we ought not to tolerate allowing the debate about how best to assist all of the nation's needy students to deteriorate to some artificial choice that would pit urban interests against rural interests in a competition for Federal assistance.

ANOTHER ENDORSEMENT OF THE RURAL SCHOOLS IMPROVEMENT ACT

This past November, the chairperson of the Organizations Concerned about Rural Education (OCRE), Mr. Dale Lestina, provided testimony in support of the Rural Schools Improvement Act of 1991. The National Rural Education Association joined in Mr. Lestina's testimony. In his testimony, Mr. Lestina correctly identified the many meaningful ways that this bill would provide assistance to rural schools and students. He stressed the bill's intent to focus on at-risk students and the provision of new resources for improving the educational opportunities for these students. He also highlighted the bill's potential for addressing the widespread problem of the inadequate physical facilities found in many rural districts.

I would, however, like to emphasize two additional features of the bill that I also believe are essential. I applaud the bill's call for the designation of an Assistant Secretary for Rural Education in the Department of Education, because I am convinced that this is probably the only way to assure that the needs and interests of rural education are represented in a timely and consistent way in the department's deliberations. There is a desperate need for a rural education advocate at a senior level who can, for example, examine all of the 150-odd existing elementary-secondary education programs administered by the department to determine how these might be better used to assist rural districts and students. There is a desperate need, for example, for someone in the department to argue that it simply must change the numerous ways that it presently defines rural schools. There is no compelling reason, no overriding rationale that I can possibly think of that outweighs the difficulties caused by the current practice of using multiple definitions. Moreover, and importantly, a senior-level rural education advocate in the department would surely enhance its ability to collaborate, and bring to successful fruition, activities with other departments and independent agencies who can contribute to the development of comprehensive, integrated, and cohesive Federal policies and programs to benefit rural education, and, by extension, rural America.

The second feature of the Rural Schools Improvement Act that I would like to stress in these brief remarks is the call for the further strengthening of the role of the Department of Education's ten regional educational laboratories. Five years ago, the Congress initiated a "rural initiative" and placed this effort in the regional labs. In my judgment, this action has done more to raise the visibility of rural education issues in this country then perhaps any other step. It has helped establish a cadre of specialists all across the country who are knowledgeable about the issues in rural schools and communities.

Moreover, while the "rural initiative" is not without its problems, it has nonetheless, in its relatively short five-year history, produced some of the very best thinking about the special challenges and unique issues in implementing school improvement in rural systems. Any way to further enhance the ability of the regional laboratories to concentrate their energies and resources on rural education, as well as build a staff having expertise in this field is to be commended, for doing so will continue to pay handsome long-term dividends.[1]

APPENDIX

Percent Rural Districts of State School Systems, 1989-90

Percent Rural Districts[1]	Number of States	States and Percent Rural Districts[2]
91-100	1	North Dakota (92)
81-90	4	Kansas (82), South Dakota (85), Montana (85), Alaska (82)
71-80	2	Minnesota (71), Nebraska (72)
61-70	7	Vermont (65), Iowa (70), Missouri (67), Arkansas (64), Oklahoma (64), Colorado (63), Idaho (64)
51-60	5	Maine (55), Wisconsin (54), Texas (54), New Mexico (55), Washington (57)
41-50	4	New Hampshire (43), Mississippi (44), Nevada (41), Wyoming (47)
31-40	11	Delaware (37), Illinois (39), Indiana (34), Michigan (36), Ohio (40), Virginia (40), West Virginia (40), Kentucky (35), Arizona (40), Utah (35), Oregon (38)
21-30	6	New York (27), Georgia (29), North Carolina (28), South Carolina (29), Tennessee (21), California (27)
11-20	8	Connecticut (14), Massachusetts (13), Maryland (17), New Jersey (12), Pennsylvania (20), Florida (13), Alabama (19), Louisiana (12)
1-10	1	Rhode Island (8)
0	1	Hawaii

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[1] Rural districts are those systems where 75 percent or more of the students attend a regular public school located in a rural locale.
[2] Percent rounded to nearest whole number.

Source: Elder (1991, Table 8).

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Chairman **Kildee**. Thank you very much, Dr. Stephens.

An opening question here: We are engaged in a great debate on systemic reform of education in this country. That is the operative term right now. And one of the other operative terms is "flexibility," particularly flexibility in Chapter 1. What kind of flexibility should we be looking at in Chapter 1, and what will the effect of that be with this emphasis: How will the kids be better served if we have flexibility in Chapter 1?

Michael, why don't we start with you, and anyone may respond.

Mr. **Casserly**. Let me see if I can take those one at a time. I think there are a number of things that the Congress could do to increase flexibility while ensuring that you are maintaining the overall focus and purpose of Chapter 1.

You have two provisions in the legislation right now that point to additional flexibility if you wanted to use them. One is schoolwide projects; the other is innovation.

There are also a number of opportunities to give the Secretary of Education some waiver authority over certain regulations if it can be determined that those regulations are either burdensome or duplicative.

I don't think, however, that any of us want to go so far on flexibility as to harm the overall purpose and focus of Chapter 1 and why some of us are probably a little reluctant to move entirely into a schoolwide focus.

Chairman **Kildee**. Yes.

Ms. **Welburn**. Mr. Chairman, I think the system is broken. Some people may want you to tinker with it. When they say, "It's not broken, don't fix it," it is broken, and you have to fix it.

One of the recommendations that we are looking at is a set-aside for professional development schools. By doing that, particularly in schools where there are schoolwide projects, you have the opportunity to bring in some of the best research that has been done on how to improve the achievement of all children, particularly those who are poor. Use the best practice in terms of retraining teachers and then ultimately be able to be flexible in the kinds of services that youngsters are offered.

So I am an advocate for looking at flexibility for change, but particularly the use of the professional development model to make sure we bring teachers along at the same time.

Chairman **Kildee**. Sister.

Sister **Sheehan**. In addition to some of the comments that have been made, one of the issues that I would raise for your consideration is that in all of the research on effective schools in general, one of the things that we know is that local autonomy plays a significant role.

Because children are unique and they have such individual needs, it seems to me that the decisions regarding their educational programs ought to be made where the children are. So I would urge you to inject into the legislation to the extent possible the flexibility that is needed to allow the principal and teachers at the site to make decisions about what the needs of a particular child and a group of children happen to be, and I think that is the only way that we are going to really reform education in a sense because we are not out to reform schools so much, it seems to me, as to improve the quality of education for all of the children, and I think that is one of the strengths of the ESEA legislation.

Chairman **Kildee**. So you would tuck an element of site-based management into this flexibility?

Sister **Sheehan**. Yes, I would.

Chairman **Kildee**. Doctor.

Mr. **Stephens**. I certainly would support any effort to develop a good balance between accountability and flexibility. My reasons, however, for doing so are perhaps a little bit different in this sense. It is based on the knowledge, I believe that is supportable—the evidence that is supportable—that there is greater diversity in the rural school component across this country probably than either the suburban component or the urban component, and that diversity must be, on the one hand, acknowledged and accommodated.

Chairman **Kildee**. One other question. Sister Lourdes, I have been in Congress—this is my 17th year. When I first came here, I recall both Bill Ford and myself used to see public and nonpublic school people marching together to get better funding for Chapter 1. And then with the Aquilar v. Felton decision that presented a challenge to Congress as to how to deliver those services to students in the nongovernment-financed schools, we tried to adjust to that. Could you tell us how that adjustment has worked in the nonpublic schools?

Sister **Sheehan**. Thank you for that opportunity.

I will respond with my understanding of capital expenses, because I think that is where you have made the most significant inroads into addressing the horrendous impact of the Felton-Aquilar decision on our students.

As I understand that, the purpose of the capital expense provision is to reimburse local educational agencies for additional costs that have been incurred for providing the off-site services to eligible children in private, religiously-oriented schools—that is, the vans, the off-site mobile units, and so forth—and you know that we have come annually to testify, asking that you increase the appropriations for capital expenses, because we see that as one of the most significant ways to provide these services.

In many situations, those capital expenses are being well used, and children are being served—eligible children are being served, but as our written testimony reflects, we are very concerned about the number of eligible private schoolchildren who are not being served, and they are not being served for a variety of reasons, but one of the significant reasons is that the LEA has to assume the additional burden of finding the vans, getting the mobile units, and so forth, and that is creating problems for them which many of them would just as soon not have to fool with.

So we are concerned that the capital expense money be used appropriately, and we are asking specifically that the money be restricted now only to provide services for eligible children and that the reimbursement of the LEAs should have taken place for the vans and the mobile units and so forth.

Are there other specific questions that I didn't address in your question, Congressman?

Chairman **Kildee**. No. I think that is basically it. So the amount of appropriations and the targeting of the appropriations would be very important then?

Sister **Sheehan**. Very important. And one of the other problems that we face is that in some of the smaller LEAs the amount of appropriation is not sufficient to buy a van, and sometimes the number of eligible private school students is not sufficient. So we need to figure out a way to address those needs, such as third-party contracts, or, as I said in the testimony, as a last measure a parental certificate, which would allow the parent of an eligible student to purchase remedial services in whatever way is appropriate.

In some of the areas that Dr. Stephens mentioned, for instance, we have a number of rural schools with eligible Chapter 1 students who are not being served because the LEAs don't get enough funds to make it worth their while. So we have evidence from the Department of Education that capital expense funds are being returned. At a time that we have thousands of eligible children not being served, it seems to me that that is not an acceptable approach.

Chairman **Kildee**. Thank you very much, Sister.

Mr. Green.

Mr. **Green**. Thank you, Mr. Chairman.

I have just one question and a long, three-part question, if I could.

The Chairman originally asked a question concerning the flexibility, and I think all of us recognize the need for some flexibility in the funding; and, Ms. Welburn, you talked about using predominately for staff development or some flexibility in providing for staff development through Chapter 1.

There are a lot of local school boards that have staff development currently that is available, and this would call for using some of Chapter 1 money for the staff development other than using the local funds, I guess, that are being used now, or State funds.

Ms. **Welburn**. Congressman, it would go beyond traditional staff development, which we know right now across the country is pretty weak. It would be for the development of professional development schools where, in the context of that school, there is ongoing training for existing teachers as well as individuals who are training to be teachers. It would be comparable to a medical student who is at a teaching hospital that you use innovation and you use opportunity to learn new technologies as well as new instruction strategies. So the whole school would be a different kind of animal, not just a one-shot professional development program for teachers.

Mr. **Green**. Do you envision it being through the colleges of education, for example? because I like what you are talking about, which is, you know, a master teacher effort working with other teachers that was much better than having 30 or 50 educators sitting in the class for 8 hours a day and everybody coming out saying, "Well, I didn't learn anything."

Ms. **Welburn**. Right. There would be a coordination between teacher training programs within that State or within that community.

Mr. **Green**. We have also had testimony from folks asking for a certain percentage of Chapter 1 funding to be used for "staff development." Do you have a percentage that you have talked about?

Ms. **Welburn**. We have talked about up to 10 percent for the professional development schools but also opportunities for staff development. But I emphasize, I do staff development on occasion, and all the research says that one-shot eight-hour deals don't work, and so if you are going to put money in for people to turn around and do those same kinds of efforts, then to me it is just a waste.

Mr. **Green**. Okay.

Let me ask a question both of Mr. Casserly and Ms. Welburn. I think everyone has talked about, on the funding formula, the change that would provide for more current updates instead of just the census every 10 years. Do we have some type of unanimous agreement that we need to come up with a more current numbers system?

Mr. **Casserly**. You have it from me.

Mr. **Green**. Okay, everyone seems to agree, except for the rural schools.

Dr. Stephens?

Mr. **Stephens**. Other than poverty, did you say?

Mr. **Green**. Oh, no. Some numbers system. I think we always should place the funds where the children are, but other than the "every 10 year" system that we have now?

Mr. **Stephens**. Well, certainly unemployment rates are provided annually across this country. The income levels—well, all of these have limitations, and I don't think I would support the use of any of them, or even weigh them necessarily heavily, but they do offer some additional insight. Unemployment rates, or especially the change in unemployment—it isn't so much the unemployment rate, I believe, it is the change in the unemployment rate that is probably a better barometer of the health of that local community, and those might be some measures. Other than that, I'm not sure I have any——

Mr. **Green**. What about an annual update from the census that we all know typically we receive?

Mr. **Stephens**. Right. We will have, thanks again largely to the efforts of Congress and the National Center for Education Statistics, available this spring—I believe that report is to be released—what I still call the school district mapping project, which will provide not only demographic data on each of the school systems of this country, but this first one has drawn some 200 different tabulations out of the U.S. Census.

The point I am trying to stress now is that we have this analytical tool that we have never had before, and what it will give us is some of those annual data that are collected on employment rates, on income levels, on other measures of economic well-being of a community; we will have data; and I would think that some of that data could be upgraded or could be packaged in such a way that would be useful in providing more timely information than this 10-year lapse that we have in poverty, and it would do so at substantially lower cost than it would be to try, for example, to conduct a census every 5 years, as has been proposed by some folks.

Mr. **Green**. Thank you.

The last part of the question, Mr. Chairman, was: How do you feel about changing the funding formula—and this is to the whole panel—compared to what funds that the State expends as compared to other State funds available, for example, and also, for example, using factors like teacher salaries, the disparity sometimes in teacher salaries, or other costs of education, putting that into the mix of the formula?

Mr. **Casserly**. I was afraid somebody was going to ask these questions.

It depends a little bit on what it is you want to try to do with the formula, whether you are rearranging money that is already there or retargeting new money on top of current appropriation. Teacher salaries, I must say, have the tendency to swing enormously from site to site, not only city to suburb to rural, but also from region to region, and putting a variable like that in the formula I suspect is going to create enormous regional and local swings, and I'm not sure with that particular variable what it is that you would necessarily have in mind or what the intent would be.

It is clear that lots of people are looking at lots of different possibilities for the formula, but I would be a little bit hesitant about that particular variable.

I must say, on the formula things, one thing that a lot of us tried to do last time, not wholly successful to everyone, was to create a formula, particularly in the concentration grants, that did as best as we possibly could in terms of giving a little bit extra bump to the urbans and a little bit extra bump to the poor rurals. We obviously didn't succeed entirely in that regard, but it was a fairly good attempt at trying to give each of those two sectors, both of whom have comparable problems, a little bit of a leg up.

Chairman **Kildee**. We have a vote on in the House right now, and suspect there will be many, many votes today. There is a little tension between the two caucus—or the Caucus and the Conference right now, I should say. They call themselves the Conference, and we still call ourselves the Caucus.

Mr. **Gunderson**. You are wrong.

[Laughter.]

Chairman **Kildee**. This is probably a vote on the invocation this morning or an amendment thereto. So we will go over and vote and come right back.

[Recess.]

Chairman **Kildee**. The subcommittee will reconvene.

We had two votes over there. One vote was to adjourn. I was tempted to vote yes as a matter of fact, but I looked at my leader who was nodding no. So it will be a long day. The two-party system is great. At times there is tension, but it does work, and we will get out of here sometime tomorrow morning, I think, if the present trend continues.

Mr. Gunderson has been a great friend of education and a great ally.

Last year, on one of the bills, you helped us get the bill out, and unfortunately things fell apart later on, but you were very helpful on that, trying to do some positive things, and I appreciate that.

Mr. Gunderson.

Mr. **Gunderson**. Thank you very much, Mr. Chairman, for those kind words.

I wanted to come back because I both want to compliment each of you on your testimony but also ask you to go back home and rewrite it. Let me share with you why. I think it is important that we all be very careful here about the seriousness of what we are doing—not that you are not. But this is really the last reauthorization before the turn of the century, and what we are really going to do is, we are going to design what elementary and secondary education in this country looks like for twenty-first century adults.

I have to tell you, tinkering at the edges and just asking for more money or a little change in a formula doesn't get it. I mean we have got to talk about how do we have children ready to learn when they start school, and how does that affect Chapter 1, and where does Head Start belong in this process, and all of our other preschool programs—Even Start—some of you talk about those types of things.

One of you has suggested, for example, that Chapter 2 ought to continue the way it is without change. Lord alive, we haven't increased funding in Chapter 2 in the last decade. I mean Chapter 2 is going to wither away on the vine if we leave it like it is.

Now, either we have got to figure out that there is a mission for the twenty-first century in Chapter 2 or give up. I happen to think there is a mission in that area. I think Chapter 1 has to be coordinated, and probably the vehicle by which we bring the different agencies together in terms of the children at risk in early childhood, but we have got to change that program dramatically if it is going to work, and have the kind of financial commitment that you want. You have got to change Chapter 2.

None of you is talking about the concept of what I believe is the school of the twenty-first century. When I go into the schools and I talk to kids and they say, "So what is school going to look like in the twenty-first century," I say, "Well, first of all, your school is going to be open year round," and, of course, the kids all drop their jaws, and I say, "But relax, you are not going to be here all year," and they say, "Well, who is?" and I say, "Your mom and dad are going to be going to school with you in the twenty-first century in this building, because we are going to have computer classes, and it is not just going to be for seventh graders, it is not just going to be for sophomores in high school, it is going to be for everybody in that community coming back."

If we have any hope of teaching our young people and giving them the tools to succeed in the global economy, every one of you ought to be saying we have got to figure out a way to make Americans bilingual. We are never going to succeed in world trade unless we prepare kids to understand world economics, world history, world languages.

Now these are tall orders, and I'm not saying we can do without money in any way, shape, or form, but we have got to do more—and I'm not picking on you, Mike—we have got to do more than creating super-concentration grants so that you and I are fighting whether that money goes to the big city schools or it goes to my rural areas.

We have got to make sure that we do more than just say, well, we are going to create an under secretary for rural education, so next year Mike is in here asking for an under secretary for urban education. Last year, we had been asking for an under secretary for vocational education. I said, "Do you want that? If you get that, guess who else is going to be asking for under secretaries next year."

So I plead with you all, pretend that no Federal programs exist today and that you really are starting from scratch in designing a twenty-first century education system, and as a Republican I'm willing to fight for a major Federal leadership role, and I'm even willing to fight for some money in that area. I'm not willing to do all that, I'm not willing to go through this reauthorization, for business as usual, and I don't think any of you, with your commitments to these children, really want tinkering around the edges either.

The yellow light is already on. We have got concerns about this Chapter 1 formula—if we get into the 50 percent poverty rate, what that means; we have got to talk about dropouts of minorities in rural areas, which is frankly higher than it is in the urban areas; we have got a lot of things we have got to deal with in those areas that I think we are going to have to follow up in the future.

But I plead with all of you, go back home and blame it on me. Say you were asked by one of those crazies on the committee to really totally redesign, break the mold in terms of what you want the Federal leadership role to be in designing the structure of education in this country for the twenty-first century.

If any of you want to comment, I am happy to listen.

Mr. **Casserly**. Mr. Gunderson, I applaud your remarks. I had hoped that you wouldn't bring up "break the mold," but I think all of us are ready to rethink how it is Federal programs are delivered but, more importantly, how it is that our schools need to be set up and structured to work for the kids, not work for the bureaucracies but to work for the kids that we are all here to serve.

So I wouldn't mind not going back and rewriting my testimony, but I applaud the spirit of your remarks.

Ms. **Welburn**. Congressman, I'm going to take a little exception with you because I think I did talk about the day, the year, the school looking very differently, and throughout the NASBE recommendations we talk about that. We talk very strongly about the need not for bilingual education but for second language acquisition, and we are urging the committee to do that.

We didn't get into the Chapter 2 portion because of time, but we are talking about taking Chapter 2 and aligning it very closely with the national goals and not to continue adding programs on top of programs.

I think every child is talented and gifted in their own right, and certainly to set aside a program for talented and gifted children and continue doing that and not look at the goals that have been established for our country for our children is short-sighted.

You know, I said I think it is broken, and I think it needs to be fixed, and I think, with all due respect to Sister because I am really involved in my parish school, public schools and Catholic schools are broken. We do it the way we did it when I went to school 30 years ago, and that is wrong, and State Board members particularly believe it is time to move forward and to develop a whole new system of education in this country both for public and nonpublic students.

Sister **Sheehan**. One of the reasons that in our testimony we requested that Congress and the Department of Education call for a gathering of private and public educators to talk about educational reform is because we are concerned about quality education for all of America's children.

My conviction is that we don't know yet what it is we need to fix. We are throwing a lot of language around, but we don't have any consensus on what is wrong, and we keep trying to look at pieces. I believe we need to look at some of the things that are right, and we have some models of some schools in this country that are working. They are not operating on a schedule, for instance, that serves an information society, and we all know that. Certainly the year-round school is something that people are looking at. But we have schools in this country where children are learning, and they are serving the same children that are being served in other schools that people are complaining about.

So I would urge you to look at some models that are working and to really take seriously our request that we get all of America's educators together and talk about what together we really need to do to improve the quality of education for all of America's children.

So I agree with you, and we certainly stand ready to participate and assist in that venture.

Mr. **Stephens**. Well, I must respond briefly also. I don't know how anybody could argue for what you are arguing for, and if we could somehow declare a moratorium and then put on the table an agenda and announce this as the agenda, that we really want to, in fact, as you correctly urge us to do, say: One, what is it that is going to be required for this country to succeed in the next generation, the rest of this generation as well as the rest of this decade plus the next century? What is going to be required? What is this thing called "information age"—what does that mean? and put some substance around that, and what does it mean when some people argue that, in fact, we are really moving out of the information age and moving into the cybernetic age—what does that mean? If we would do that and take the time to flush that out and then, secondly, talk about what is the Federal role, the second thing you called for, I think that would be a breath of fresh air. I think you would find that many people would respond to that wholeheartedly. In fact, they would probably stumble over each other trying to participate in such a discussion.

So, you know, how does one argue against what you are saying? Beautiful, but there is an important caveat, I think. That is, if you can declare a moratorium, some kind of a safe, harmless moratorium, while that other debate unfolds, beautiful.

I think I share the frustration that I believe is in part behind your comments, and I think it is widespread. Part of the discovery level would be precisely what the Sister is asking for—really, what is the nature of the problem? We have had an awful lot of misinformation over the past especially 10 years, and that has clouded the debate, and it is unnecessary, and I wish we could get rid of it, and the kind of thing you are talking about, it seems to me, would facilitate that.

Chairman **Kildee**. Thank you, Mr. Gunderson. I think you have changed the direction of the discussion, which is very important.

Mr. **Casserly**. Mr. Chairman.

Chairman **Kildee**. Yes, Michael.

Mr. **Casserly**. Just in the spirit of Mr. Gunderson's proposal, we actually recommend repealing Chapter 2, but I didn't think it was going to go over so big on our side.

[Laughter.]

Mr. **Gunderson**. You are probably right.

Chairman **Kildee**. Anyway, as Chairman of this committee, I want to make sure that we are not locked into a 1965 time warp. In 1965, what happened then was really a great step forward in education in this country, probably one of the greatest steps forward since the time of Lincoln really and the time of setting aside certain areas of a township for education. But I want to make sure we are not locked in a 1965 time warp.

I talked to Secretary Riley yesterday at about 5 o'clock as to when they would have their proposals up here, and that somewhat guides our schedule, not that we are going to rubber-stamp their proposals, but it is a new administration. He at first indicated June 1, which I told him was way too far down the line. We have him backed up now to May 15, which is still a long way down the line. But I told him that there could be no slippage on that. In the meantime, we are going to proceed with our own work on this, and I would hope before May 15 we would have a lot of consultation with him and get some ideas.

Mike Smith—Marshall Smith—formerly of Stanford, is really in charge of doing that, so any input you have down there with the administration would be very helpful, too, not only as to substance but as to expedition of the process.

I think Sister pointed out, there are a lot of good things happening in education out there, and we should look at why those things are happening, what is the substance of those things, and how we can help replicate those things, and then look at some of the things that aren't happening so well and see what we can do to assist there. But I think very often we do lose sight of the fact that there are some good things out there happening in education that we should learn from.

Major Owens. Thank you for your patience, Major.

Mr. **Owens**. I apologize for having to be in and out and not hearing all the testimony.

I am concerned in this special year, a year when we have a new administration that has taken over, that doesn't promise a revolution, and who needs a revolution? I would settle for an accelerated evolution. The problem is, which direction is that evolution going in? It is going to be moving, we are going to move in some direction, and I would like to see education have a better sense of where it is going and be kept on the priority list.

You are very powerful opinion makers and great communicators, and you represent very important bodies of people. I would like to know how you feel about the overall situation at this point as we move through the first 100 days. Education I am not hearing enough about, and I am worried about the trivialization of education, the Federal role in education certainly, in education. In this administration there just does not seem to be enough happening.

Let me just be a little more specific.

Mr. Casserly, for instance, at the end of your summary in this magnificent set of recommendations you have here, you have "would authorize a new Marshall Plan for general aid to urban and rural schools and school building, repair, and renovation."

Now I didn't have to read Jonathan Cozell's book on Savage Inequalities to know how desperate we are even in the fundamental area of just physical places to put children. My question is, how many of the mayors who submitted their list to the new administration, their list for immediate kinds of projects that could go forward with community redevelopment, grant money, and other moneys in the investment package—how many of them included schools? Do you know, in the Great Cities, how much of a priority school buildings got in that process?

Mr. Casserly. When the mayors submitted their packages on infrastructure repair, my understanding from the material that we got from them was that precious few mayors actually included school building, repair, and renovation in their proposals.

There are actually only a handful of cities where the mayor has financial jurisdiction, like they do in New York City, over the schools, and unfortunately too many mayors feel like the schools are a separate entity and pay no particular attention to them when it comes to thinking about a broader urban renewal and urban revitalization plan.

It was one of the things, I must say, I was disappointed about in the discussion about infrastructure repair and roads and bridges and highways that schools were not a more integral part of that, and I think one thing that is long overdue is for this committee to pass an authorization that creates a program for school building, repair, and renovation.

Mr. Kildee had a bill of that order some time ago, and I know the Chair is generally in support of that, and it is great to talk about reform and breaking the mold and rethinking schools and restructuring and all of that, but if our kids have to go to school in buildings that are broken down and the teachers have to teach in inadequate facilities and they don't have the equipment. As you know, you have been in and out of the same schools that I have been in and out of, and I know Mr. Green has been in and out of the Houston schools, some of those buildings are absolutely appalling, and it is time for the Federal Government to put an authorization on the table to help us deal with that.

Mr. Owens. I am not a lawyer, and I hadn't researched that question before I gave it to you so that I knew I would get the right answer, but you gave me the right answer.

Mr. Casserly. I'm glad you asked.

Chairman Kildee. Would the gentleman yield just momentarily on that point?

Mr. Owens. Yes, I yield to the Chairman.

Chairman Kildee. I really think you put your finger on something that goes beyond just an education or a fiscal issue, it is a moral issue. I have been in school buildings in this country that a

Federal judge would not allow us to keep prisoners in. I know that because the jail in Genesee County, Michigan, was closed by a Federal judge because it was not fit to keep prisoners in, and I think the Federal judge was right. But we have schools in this country in worse shape than that jail. Some schools would be happy to take over that jail because they would have improved themselves. I think it is a really moral question too, and I appreciate your raising the point, Major Owens.

Mr. CASSERLY. I agree with you, Mr. Chairman. We spend more in this country on prisoners, per individual, than we do on students, and it is a disgrace.

Mr. OWENS. The next question is: If not mayors, they are not fighting for schools, then who? Who is fighting for schools to be included in the priority and the emergency in the investment package here in the capital? And, of course, the broader question is the question I asked before: How do you feel about the kind of priority being assigned to education, or nonpriority that is being assigned to education, in these first 100 days here in Washington?—any one of you.

Sister SHEEHAN. I will answer that, Congressman, by saying this. I think the current tenor regarding education that you are referring to is only reflective of the state of education in this country. Teachers are not valued, the profession of education is not valued, and until we figure out a way to make education a higher priority for everybody——

Mr. OWENS. But it is. Among the public the polls show that education is a high priority. It is up there next to health care, or just below health care.

Sister SHEEHAN. Well, we certainly don't pay teachers. If paying teachers is any indication of where we value education, no. I mean it is fine for the polls to say education is important. My hunch is that people are concerned about the state of education and therefore are making that a priority when they keep reading polls that the SAT scores are going down and the violence that is surrounding our schools and so forth. That would make it a major concern.

Mr. OWENS. You are leaders, and we are leaders. What are we doing wrong? Why can't we translate the unease, the anxiety in the public, the fact that the public does rate it as a high priority—why can't we translate that to action which is more meaningful by our Federal Government?

Ms. WELBURN. Congressman, to answer your question in two parts, when the election was concluded in November we sat down and said we were going to have to make friends on new committees, because infrastructure is a vital concern to all of us, and we felt like we were going to have to get out there and fight when it came down to actually developing revenue for infrastructure for schools, and it is something that we are going to remain committed to.

In my testimony I made reference to the fact that really changing schools and bringing about systemic reform will not only take political willpower but a good public relations effort, and I believe that very strongly because we continue to hear that there is something wrong with America's schools "but not my school," and that is because if you are in a school and looks like it did when you went and your child is getting As or Bs, then you are satisfied.

As a parent, I am continually at loggerheads with my own principal and teachers because I keep saying it can be done differently and it can be done better, but people are not convinced that the reformed school is not just going to be a better version of what they had. To talk about using the building and the facilities in different ways, to talk about enrichment, to talk about taking kids off site, talking about year-round schooling are all issues that people can buy into on an intellectual level until you say, "We're going to interfere with your summer vacation," or, "We're going to interfere with the employees that you need to run the fast food stores," and so we can agree on it on an intellectual level, but when it comes down to actually getting people to something about it, we have not done the public relations job that has to be done to convince people that schools can look differently and that they have to look differently and behave differently.

Mr. CASSERLY. Mr. Owens, I would add to that just one other thing, and that is, I think we do need additional leadership from the White House on the issue of education in this country. All of the proposals haven't been aired yet from the administration, and we are certainly hopeful that they will have more to say about education in the future and include the kinds of things that we know are needed for inner city and rural schools, and we are certainly pressing them to pay some additional attention to those areas, but I think it is going to take a leadership and a voice from the White House to galvanize the American public in a constructive vein on behalf of education.

Mr. OWENS. Thank you, Mr. Chairman.

Chairman KILDEE. Mr. Green.

Mr. GREEN. Thank you, Mr. Chairman.

If I could just say something about it, as I left a while ago we were talking about changing the formula for Chapter 1, and one of the ways we as Members of Congress can do something about it is make it an incentive for higher teachers' salaries by building it into the formula and looking at ways to encourage local districts. We don't provide enough money to do that, but I think if school districts and State boards would recognize that we are eligible by putting more resources into education in our State as compared to our State wealth, we will get more Chapter 1 money, for example. I can we affect, even in a small degree, the teacher salaries that we all know need to go up.

Let me follow up on a question earlier, and, Mr. Chairman, I apologize, I'm still getting used to the system where you run over and vote and then 30 or 40 minutes later you come back and finish your questioning.

But the number of recommendations that we have designed to put as many possible dollars on the local level rather than the State level for the percentage of Chapter 1—I would like to see what we could do because I think all of us recognize that that money needs to get to the district and to the classroom as much as we can. Do you have some suggestions on percentages or anything like that, getting it directly to the classrooms instead of, say, the State education agency for Chapter 1 funding?

Ms. **Welburn**. We have not done the percentages in that way, especially in Chapter 1. We looked at Chapter 2 as an area where we would enable States to provide the kind of technical assistance and support that local districts need in order to achieve the goals.

So often States institute mandates or requirements or set standards for students, and the States are facing tight budget constraints, and the local communities are facing the same kinds of obstacles, and we are looking to the Chapter 2 resources to help States develop the kinds of assessments, the kinds of support systems that local districts need in order to achieve the goals that States are setting and the standards that they are setting for their students.

Mr. **Casserly**. I think we would differ a little bit from that. On Chapter 1 our recommendation is to keep the 1 percent State administrative set-aside. On other programs like math and science we have also recommended decreasing the level of money at the State level.

On our version of what was the neighborhood schools reform bill last year, we have a piece of legislation in our package to replace Chapter 2 with our own urban reform bill, and in there we have recommended a 10 percent set-aside at the State level for statewide curricula reform development efforts and standard setting and goal setting and all of that, with 90 percent of the money driven down to the LEA level, and then the LEA keeping 10 percent for its own community-wide efforts and then driving 90 percent of that down to expenditures on individual schools.

Our perspective just from the local level is that considerably too much money stays at the State level to process paper like this, and to our way of thinking one of the great things this committee could do would be to tighten up on those percentages and start driving the money further down.

Mr. **Green**. Okay. To follow up on that, I notice on page 3 of your statement where the Council is proposing to prohibit States from promulgating rules outside the statutory limits of Chapter 1—that is at the bottom of page 3—to mandate that States are required to submit their own rulemaking to the Secretary of Education for review.

There are some State mandates that go from the State to local that I consider some of the best things we can do for education; 22 to 1, for example; and I have heard for years the States didn't provide the funding for those mandates. I would hope we wouldn't have to get permission from the Secretary of Education if a State wanted to do something like that. I think everybody talks about class size as such a big issue.

Mr. **Casserly**. Yes. We didn't recommend in our proposals that there would have to be Department of Education approval. The State would simply have to send its regulations into the Department of Education so we could all have some access to it to see what they were actually doing and to possibly review those State regulations to whether and where they varied from Federal law.

Mr. **Green**. And I know there are some States which require documentation to qualify for Chapter 1 funding that other States don't have to do, or at least they don't feel like they do, so I think we could make uniform what everybody is having to provide or the hoops to jump through.

Thank you, Mr. Chairman.

Chairman **Kildee**. Thank you very much.

Major Owens, do you have any further questions?

Mr. **Owens**. No, no further questions.

Chairman **Kildee**. I want to thank the panel. This has been an extraordinarily fine panel. Each and every one of you have contributed significantly to the reauthorization of the ESEA. One of the great advantages of this committee is to get the ideas and insights of various people involved in serving all the children of this country, and you have done an excellent job on that, and I deeply appreciate it.

We want to stay in touch with all of you. I am always available. Any one of you may feel free to drop by my office, and I'm sure I can speak for the other members of the committee.

I think this year has to be a most significant year in education. I really want to make sure that we do make a difference in education in this country.

Michael, you talked about my bill on infrastructure. Back when I first came here, EDA used to give great grants. I can recall one small town in my district—no longer in my district; I wish it were because they loved me there—we got an EDA grant to build a middle school, and that town needed that school so badly, but there was no way on God's green earth that they could have put the money together with State funds to do that, and they have now a magnificent building there, built with an EDA grant. They were just absolutely stunned when I was able to make the announcement that they were getting those dollars. And there are other places out there that have buildings that I mentioned are terrible. I walk into some buildings, and I just can't believe that, morally, we would have children being taught in those types of buildings. I would hope we could do something on infrastructure too.

We certainly want to do something on making ESEA responsive to the needs of all the kids in this country because we owe that to them. We have not treated them always very well, but I think we have to treat them well. We certainly are borrowing from them. We are borrowing from them every time we raise the national debt, and if we are going to borrow from them we should certainly give them something—right? I think we have an obligation, a moral obligation, to give that to them.

I really want to thank all of you for your testimony. It has been excellent. Again, my office door is always open for you to come in any time to give me any further insights or amplifications on your testimony today. We will keep the record open for an additional week for inclusion of any additional testimony.

Thank you for your testimony, and, with that, we will stand adjourned.

[Whereupon, at 12:14 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

CONSUMER EDUCATION

TESTIMONY

provided to

U.S. House of Representatives

Subcommittee on Elementary, Secondary and Vocational Education

Dale E. Kildee, Chairman

March 26, 1993

prepared by

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313-487-2292

ABSTRACT

This recommendation proposes that the Congress of the United States authorize the re-establishment of the Office of Consumer Education with a Fund for the Improvement of Consumer and Personal Finance Education.

The Office shall serve as a catalyst, in partnership with others, to assure that all students in the nation's elementary and secondary schools gain the knowledge and skills necessary to **successfully manage their personal economic resources as they become productive workers, consumers, savers, investors and voters** in an increasingly complex global marketplace.

A new focus, increased academic rigor and appropriate delivery mechanisms must be developed, disseminated, monitored and continuously improved if schools are to provide essential consumer and personal finance education for all students in K-12 classrooms.

National Institute for Consumer Education

The National Institute for Consumer Education was established in 1973 as the Michigan Consumer Education Center, and is administratively housed in the College of Education at Eastern Michigan University. The Institute provides professional development courses, workshops and conferences for teachers, develops teaching materials, and maintains a national clearinghouse of consumer and economic education resources.

The Institute receives funding from corporations, foundations and government to supplement and extend the basic support provided by Eastern Michigan University.

The ideas expressed in this testimony reflect recent national studies as well as opinions of those who have interacted with the Institute since 1973, including classroom teachers, teacher educators, educational policy makers, students and consumer leaders in business, government, labor and the community.

CONSUMER EDUCATION

In the United States, consumer education provides knowledge and skills we need to function effectively as consumers, workers and citizens within the national and global economy.

Consumer education focuses on personal economic decision-making and critical thinking about topics such as money management, consumer credit, insurance, savings investing, consumer health, environment, citizen rights and responsibilities and basic economic principles.

Government, business and labor must work together to increase funding for teacher training and up-to-date teaching materials so that consumer education can take its rightful place in the mainstream of public education.

Congressman William D. Ford
Consumer Education in the United States,
A Composite Vision, 1992 [1]

Action and Goal

In the mid 1970's, the United States Congress authorized the establishment of the Office of Consumer Education in the Department of Education under the Elementary and Secondary Education Act. That office was among several small federal educational programs that were eliminated in February of 1982.

Because the Clinton Administration has a strong commitment to making public education better for all students, we propose that Congress authorize the re-establishment of the Office of Consumer Education with a Fund for the Improvement of Consumer and Personal Finance Education.

The goal of the Office shall be that all students in the nation's elementary and secondary schools gain the knowledge and skills necessary to successfully manage their personal economic resources as they become productive workers, consumers, savers, investors and voters in an increasingly complex global marketplace.

Need

All students, those going on to college as well as those going directly into jobs, require essential consumer and personal finance competencies, skills they will use throughout their earning years and in retirement. While informed individuals are likely to experience both the personal satisfaction and enhanced quality of life that comes from being in control of their financial affairs, many consumers are shockingly ill-prepared to cope with the complex financial decisions of daily living. This lack of skill affects not only individuals and families but also the overall health of society and the effective functioning of the nation's economic system.

Consumer and personal finance education has often been neglected in the nation's schools. Leadership is needed at the federal level in this important curriculum area for the following reasons:

- many American consumers use money inefficiently because they have low levels of consumer knowledge
- elementary and secondary school teachers are often ill-prepared to teach the concepts of consumer and economic education within social studies, business education, home economics, reading, mathematics and science classrooms
- consumer knowledge and skill reduces reliance on government assistance by promoting financial responsibility
- the United States trails other leading nations in the education of its citizens retarding their personal financial affairs at a time when worker productivity is essential in an increasingly complex and technological economic environment.
- personal financial problems can negatively affect job performance and the general health and well being of adults and their children

Administration and Functions of the Office

It is recommended that the Office of Consumer Education be administratively housed within the U.S. Department of Education, reporting to the Assistant Secretary for Elementary and Secondary Education. The Office would establish a National Advisory Panel made up of representatives of business, government, labor, education and community groups to provide direction and to identify promising initiatives. Functions of the Office would be to:

- develop national standards and curriculum guidelines in consumer and personal finance education at the elementary, secondary and adult education levels
- demonstrate ways to integrate academic and vocational education instruction in consumer and personal finance education
- promote an interdisciplinary approach, using concepts from economics, mathematics, science, political science, psychology, sociology and law
- provide teacher training programs and strengthen college teacher education programs both at pre-service and in-service levels
- expand the services provided by the national adjunct ERIC Clearinghouse for Consumer Education as an important channel for disseminating curricular materials and other information for use in educational programs
- develop models to evaluate student learning in consumer and personal finance education
- encourage partnership programs among business, education, government, labor and community groups to strengthen and promote consumer and personal finance education

Consumer Knowledge. What Do We Know?

Recent surveys in the United States suggest that consumer education has not kept up with the rapid changes in essential consumer knowledge. We have not yet reached a desirable level of sophistication in managing cur personal financial resources.

What Adult Consumers Know. In 1990, the first comprehensive test of adult consumer knowledge in the United States showed significant gaps in key areas and demonstrated the need for improved consumer education. The test was sponsored by the Consumer Federation of America, developed by consumer leaders, conducted by Educational Testing Service (ETS) and funded by the TRW Foundation.

The average overall test score was only 54 percent, when respondents could have scored about 25 percent simply by guessing. Of particular concern are the extremely low scores for questions that test basic consumer knowledge such as:

- Only 37 percent know that the annual percentage rate (APR) is the best indicator of the cost of a loan
- 38 percent know that a certificate of deposit usually pays higher yields than a money market account
- 49 percent understand what a credit repair firm can and cannot do.

While a majority of adults know what compounding is, 75 percent exaggerate its importance and undervalue interest rates when estimating future yields on savings and investments. Less than 50 percent understand what credit life insurance does and how expensive it is. [2]

What High School Students Know. A 1991 test of consumer knowledge of 428 high school students in shopping malls across the United States was sponsored by the American Express Company and the Consumer Federation of America, and conducted by The Psychological Corporation. The results of the high school test send a strong message to parents, educational policy makers, consumer advocates and others who are concerned about the future financial independence of the nation's young adults.

American high school seniors have surprisingly little consumer know-how. Many lack the basic knowledge and skills needed to make important personal financial decisions they will face as young adults.

American teenagers answered only 42 percent of the test questions correctly when they could have scored about 25 percent just by guessing. Of particular concern are the low scores on questions about credit, bank accounts and auto insurance.

- Only 18 percent of the students recognize the importance of the annual percentage rate (APR) when considering a consumer loan, while 42 percent said that the interest rate was the best indicator.

- While 33 percent know the purpose of a credit bureau, only 11 percent knew what consumers can do if a credit report contains incorrect information.

- Only 37 percent are aware that finance companies usually charge higher loan rates than banks, credit unions, and insurance companies.
- Only 26 percent know that, when a credit card account is not paid in full each month, interest charges on new purchases begin on the day of the purchase. Forty-two percent of the students think that these charges begin a month after the purchase. [3]

Both the high school and the adult consumer competency tests showed glaring deficiencies in knowledge among the young, the poor, the least well-educated and minorities. Whites, Asians and those from middle and upper income groups scored highest while Blacks, Hispanics, and those from low and lower middle income groups scored the lowest. Some consumer advocates assert that the low-scoring group is also the neediest, and to the extent consumer education should be targeted, it should be directed to these groups.

Others point out that consumer education already suffers from the stereotype of being useful only to the less well educated and the low income. While increased levels of education, including consumer education, will reduce the chances of living in poverty, the major focus should be on raising the standard of consumer knowledge and skill for all citizens, all income groups, all achievement levels.

The two recent national tests confirm that students and adults are not well prepared to make informed consumer decisions in the 1990s. It would seem that little progress has been made since the 1970s. Ralph Nader wrote in a 1975 article titled **Neglect of Consumer Education Is Shortchanging both Students and the Nation :**

> Although they will spend a large part of their lives involved in consumer activities, during twelve years of schooling most students are taught very little that will help them deal effectively with the marketplace. They know nothing about the insurance or banking industries. They are not taught how to handle their own money or to protect their own health. And they don't know how to deal with their consumer rights: where to go to have their grievances resolved or how to get information. Worst of all, they don't even know what questions to ask. [4]

A new national focus on consumer education along with strengthened teacher education and improved access to curriculum materials are critical needs if by the year 2000 every American is to "possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship," as suggested in the 1990 National Education Goals. [5]

Definition and Concepts

In 1978-80 the then-existing federal Office of Consumer Education funded a two-year Consumer Education Development Program. One of the goals was to define consumer education and describe its concepts. The resulting document, **Classification of Concepts in Consumer Education**, has received broad acceptance both in the United States and abroad as a framework for curriculum development and program design. [6] Consumer education is multidisciplinary by design, integrating concepts from economics, mathematics, psychology, sociology, political science and law. In schools, it is sporadically addressed in social studies, math, business education and home economics classrooms.

Consumer education is the process of learning to manage personal resources and to influence the social, political, economic, technological and environmental decisions that affect consumer well being.

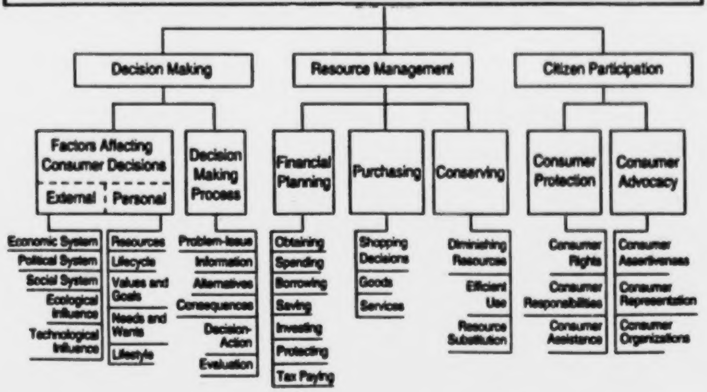
Decision Making
Resource Management
Citizen Participation
Factors Affecting Consumer Decisions
External
Personal
Decision Making Process
Financial Planning
Purchasing
Conserving
Consumer Protection
Consumer Advocacy
Economic System
Political System
Social System
Ecological Influence
Technological Influence
Resources
Lifecycle
Values and Goals
Needs and Wants
Lifestyle
Problem-Issue
Information
Alternatives
Consequences
Decision-Action
Evaluation
Obtaining
Spending
Borrowing
Saving
Investing
Protecting
Tax Paying
Shopping Decisions
Goods
Services
Diminishing Resources
Efficient Use
Resource Substitution
Consumer Rights
Consumer Responsibilities
Consumer Assistance
Consumer Assertiveness
Consumer Representation
Consumer Organizations

Figure 1. From the monograph **Classification of Concepts in Consumer Education** (Bannister and Monsma 1980), National Institute for Consumer Education, Eastern Michigan University. Research funds provided by the United States Department of Education.

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Consumer Education in Schools

In 1990, the National Coalition for Consumer Education surveyed state school administrators in fifty states to provide benchmark data on the status of consumer education in the nation's schools.

- Thirty states and the District of Columbia have statewide consumer education policies. The policies differ widely and teachers have great flexibility in the classroom. While several states have a clear mandate to include consumer subjects at the secondary level, the policy is optional in eight states, leaving the decision to local school policy makers.
- Nearly two thirds of the states report that consumer education topics are more likely to be discussed today than five years ago, indicating a growing awareness of need.
- Personal financial management is the topic most frequently mentioned as one that should be included in consumer education. [7]

A similar study was recently conducted in Michigan. While three out of four Michigan high schools offer a course in consumer education, less than one out of four schools require such a course for graduation. State guidelines in the social studies recommend that a separate course be offered to all students at the 9th grade level.

Michigan high school students were asked: "Do you think schools should give more or less emphasis to managing personal finances?" The answer was clear. Nearly nine out of ten students want a course in personal finance before they graduate from high school. Students with high grade reports expressed more interest than those with lower grades, lending support to the idea that personal finance should be available to all students, not limited to slow learners. [8]

On March 25, 1993, the **New York Times** reported that the New York State Commissioner of Education proposes to make work experience an integral part of the requirements for high school graduation. The proposal would require lessons about managing money in all courses at all grades, in recognition that personal money management skills are important to effective job performance and that personal financial problems will negatively affect performance. [9]

Consumer and homemaking education. While consumer education is one of the subject areas addressed in the federal vocational consumer and homemaking legislation, a recent federally funded study, **Vocational Education in the United States: 1969-1990**, revealed that fewer than 50 percent of high school graduates complete one or more courses in consumer and homemaking education.

Overall, public high school graduates in 1987 earned an average total of 22.8 Carnegie units in high schools. (A Carnegie unit is a standard of measurement used for secondary education that represents the completion of a course that meets one period per day for one year.) On average, graduates earned 4.4 units in vocational education, or about 20 percent of total units. Within the vocational education curriculum, graduates of public high schools averaged 0.6 units in consumer and homemaking education. [10]

Consumer and homemaking courses include a variety of instructional topics, such as child development, clothing, basic food preparation and home management. This instruction, while important, may not be the most appropriate area to be charged with the responsibility for teaching consumer and personal finance concepts to all students. Federal funds for consumer education should not be restricted to one department or program, but should be based on the availability of qualified teachers who can reach the greatest number of students.

Benefits of Consumer Education

In 1991 the National Institute for Consumer Education published a report of a survey asking a nationwide sample of consumer education practitioners to describe the benefits of consumer education. The report focused on benefits to individuals, business and society. Among the words used to describe the benefits to individuals were confidence, skepticism, knowledge and longevity.

Confidence. Consumer education can instill feelings of optimism, independence and satisfaction . Confident consumers gain a sense of greater self esteem because they have more control over their lives. They experience satisfaction when they reach financial goals through careful use of limited economic resources. They have the ability to adapt to changing conditions on a daily basis. They can join as citizens to correct undesirable practices or situations.

Skepticism. A healthy skepticism is a valuable attribute. It protects consumers from false and misleading claims about products and services. A questioning attitude, tempered with trust, builds skills for gathering and evaluating information.

Knowledge. Consumer know-how includes the capacity to absorb general principles and to apply relevant information when making consumer decisions. It emphasizes practical, relevant approaches to consumer choice. For example, the principles of personal finance promote careful use of scarce resources.

Longevity. Gaining consumer knowledge and skills is a lifelong process, and the concepts of consumer education are transferable to other situations and points of time. For example, the skills of questioning, gathering and evaluating information, critical thinking and decision making grow with use and do not go out of date. [11]

Teacher Education

Teachers make the final decisions about what will be taught in the classroom and how. Opportunities must be expanded for teachers to be comfortable with the basic subject matter of consumer economics and personal finance.

One of a growing number of books that provide suggestions for educational improvement is **The Learning Gap: Why our Schools Are Failing and What We Can Learn from Japanese and Chinese Education**. Over a ten year period, the authors studied educational practices in the United States, Japan, Taiwan and China. They suggest that teachers spend more time while at the university "taking courses in the basic disciplines of mathematics, literature, history, social sciences and other fundamental subjects. To be able to organize clear, authoritative, coherent lessons and to improvise when students think of unusual questions or unexpected solutions requires solid mastery of basic subject matter." [12]

New and rigorous standards for consumer education will require more effective ways for teachers and their students to master the concepts necessary for sound economic decision making while learning how to think critically, to apply what they learn in new situations, to pose questions and to solve problems.

Teaching Guides

Curriculum development efforts in the United States are scattered and uncoordinated. National standards in consumer education would help focus attention on this important curriculum area. Teachers and textbook authors would have clear guidelines for organizing their lessons, and schools would be able to evaluate student performance with less guesswork. As asserted in **The Learning Gap**, "adopting national guidelines and standards does not necessarily mean relinquishing local control. School districts could still decide the manner in which they would follow the guidelines and attempt to meet the standards."

Easy-to-use teaching guides and up-to-date lesson plans are in demand among busy classroom teachers because preparing well-crafted lessons takes time and time is in short supply for most teachers. Even when good materials exist, teachers often do not know about them. Computer technology and information clearinghouses help to link teachers, students and relevant consumer materials.

The national adjunct ERIC Clearinghouse on Consumer Education currently operates without federal funds, thus limiting its scope and effectiveness. Examples of types of materials submitted to the ERIC data base are:

> **Economic Living Skills for High School Students**. 1991. An activity based resource to orient Canadian young people to the realities and opportunities of the marketplace. Teaching modules on The Canadian Marketplace, Your Economic Decisions, Resource Management Skills, Entrepreneurship, and Citizen Participation in Canada's Market Based Society. Contact Director of Education, Consumer and Commercial Affairs, 1871 Smith Street, Regina, Saskatchewan, Canada. S4P 3V7
>
> **Consumer Approach to Investing**. 1992. A teaching guide for high school and adult educators. Units on Basic Financial Planning, How Financial Markets Work, Saving and Investing Choices, Financial Information Sources, Investment Fraud, and Ethics and Fraud. Contact National Institute for Consumer Education, Eastern Michigan University, Ypsilanti, MI 48197.

In Japan, national leadership is working to enhance the teaching of consumer concepts across the curriculum. Guidelines developed by the Japan Ministry on Education took effect for elementary children in April of 1992, and plans are in place to implement the guidelines at the junior high level in April of 1993, and at the senior high level in April of 1994. A unit on family finance and consumption will be required of both boys and girls within the general education curriculum at the high school level.

Shared Responsibility for Consumer Education

A basic premise of consumer education is that the marketplace functions best when its citizens are well informed and have opportunities to participate in the policy making process. If the United States is to realize the attainable goal of having well educated consumers in the 21st century, significant commitment and hard work will be required from many sectors.

Consumer education has no one supreme authority with whom the responsibility rests. Partnerships will be essential at local and national levels if improvement is to occur. These partnerships will include government, business, labor, consumer advocates, media, classroom teachers, educational policy makers, university educators, parents and students.

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Testimony on
H.R. 6
The Reauthorization of the
Elementary and Secondary Education Act

Presented by
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to the

Subcommittee on Elementary, Secondary and Vocational Education
United States House of Representatives

Mr. Chairman and Members of the Subcommittee:

I am pleased to present to you this testimony on the reauthorization of the Elementary and Secondary Education Act (ESEA) on behalf of the National Association of School Psychologists (NASP). NASP represents over 16,000 school psychologists and allied professionals nationwide and abroad. NASP serves its members and society by promoting the rights, welfare, education, and mental health of children and youth, and by advancing the profession of school psychology. This is accomplished through education, service, research, and policy development.

NASP believes that every child can and will learn, that every child's quality of life can be improved and that our educational system must prepare all children to become literate and motivated workers, caring family members, and responsible citizens. School psychologists are committed to the belief that all children must be mentally and physically healthy and educated so that they may benefit from and contribute to the full social and economic rewards America has to offer and to meet the challenges of an increasingly complex world. This can occur only when policies and programs make improving the lives of children a priority.

ESEA is a critical vehicle for meeting the special needs of "educationally deprived" children, including those who are economically disadvantaged, bilingual, migrant, handicapped, neglected and delinquent, and for ensuring that the risk for school dropout is reduced. It is essential that these vital programs continue and expand in order to ameliorate impediments to learning and ensure the educational, social, and emotional success of our nation's school children. In reauthorizing ESEA, **NASP recommends** that you:

- **Equalize funding to all schools to decrease disparity among schools systems and states.**
- **Develop "one-stop-shop" community schools to provide wrap-around health and mental health services, including in-school pupil services.**
- **Establish an Office of Coordinated Pupil Services within the U.S. Department of Education.**
- **Fund schools that demonstrate progress in academic skills, social skills, and constructive community values, and that prevent and reduce behavioral problems and school dropout.**
- **Fund programs based on student outcomes.**
- **Reduce the number of categorical programs and establish coordinated interdisciplinary programs.**
- **Model and encourage the effective use of conflict resolution in schools.**

Complete recommendations and their supporting rationale may be found in Appendix A.

All American school children are growing up in a world that makes them "at-risk" for educational and social failure due to various factors including: poverty, changing family structure, homelessness, hunger, poor health care, prenatal drug and alcohol exposure, increased incidence of child abuse and neglect, teenage pregnancy, racism, and violence in schools and communities. The Children's Defense Fund (1990) states that "the mounting crisis of our children and families is a rebuke to everything America professes to be. It also will bring America to its economic knees and increase violence and discord within this country unless we confront it." Since the future of our social structure and economic health depends on our children, we must immediately make an investment in this most valuable resource.

Today, many families have fewer resources to provide for their children, less time to devote to their care and nurturing, and fewer informal social supports. At-risk children are found among every income group. Too many children grow up in families whose lives are in turmoil, where parents are too stressed to provide the nurturing, structure, and security that protect them and prepare them for adulthood. The burden of maintaining a decent standard of living (especially for single-parent households) has become so great that many families are economically vulnerable. These children too often arrive at school hungry, inadequately or inappropriately dressed, unhealthy, and fatigued. This leaves them unfocused and unprepared to learn, thus increasing the chances that, over the years, they are more likely to be held back or to drop out of school.

A 1986 report by the United States Congress, Office of Technology Assessment estimated that almost eight million, or 12 percent, of all children have significant emotional or behavioral problems warranting the use of mental health services in the schools. If unattended to, these problems will continue to have tragic consequences for schools, children, and their families. These aftereffects include increased violence and crime, illiteracy, and a perpetuation of the cycle of poverty in which many American school children are trapped. These societal factors, coupled with a "one-size-fits-all" educational model pose significant challenges for schools attempting to prepare students to be positive contributors to society. Services are needed more than at any time in the past.

The 1990s will be a pivotal decade in addressing educational and social challenges. In the last 10 years, the commitment to educational reform has been sounded at national, state, and local levels, signaling that the "decade of children's mental health" clearly has begun. In numerous reports and research studies, these facts have clearly emerged:

- Children spend the second greatest amount of time (next to home) in schools.
- Services are often not available to meet the needs of most children, particularly disadvantaged, minority, and rural children who are at-risk.

- Some schools have low expectations for students at-risk and they establish inappropriate learning objectives and goals.

- Methods of evaluation and intervention vary greatly among schools, and often, students' educational problems are never fully identified or addressed.

- Most school reform initiatives appear to be in response to declining academic achievement rather than an effort to find ways for schools to meet the diverse needs of all students.

- School reform has overlooked the critical social, emotional and psychological blocks to learning that affect so many children.

To face these challenges, effective school psychological services are critical in improving the lives of children. Children must have their basic social and emotional needs fulfilled before they can truly focus on academic learning. Since schools have access to virtually all children, they are the natural setting in which to intervene to ensure social, behavioral, and educational success.

School psychologists are uniquely qualified, in training and experience, to provide schools, students, and families with the services necessary to address issues such as discipline problems, academic underachievement, suspension/expulsion/dropout, grade retention, and overplacement in special education. These issues are addressed through services such as consultation with teachers, developing social skills and discipline programs, curriculum-based measurement, program evaluation and direct interventions including psychological counseling and parent training in child management and academic learning.

School psychologists believe that it is essential to demonstrate that the outcomes of the services they provide are directly related to the problems that the schools face today. There is clear evidence that consultation, counseling, curriculum-based measurement and academic intervention, social skills training and discipline programs, and parent training and involvement have a significant impact on outcomes for students and schools. An excellent example of the positive effects of integrated pupil services on at-risk children and youth is project ACHIEVE, a U.S. Department of Education and Florida Department of Education funded school reform program. See Appendix B for examples of similar programs.

Project ACHIEVE in a Chaper 1 School

Project ACHIEVE began as a district-wide training program for school psychologists, guidance counselors, and elementary-level instructional consultants, and became school-based in 1990. Housed initially at Jesse Keen Elementary School, a Chapter 1 school serving 650 pre-kindergarten through fifth grade students significantly at-risk in one of the most racially diverse

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and low socioeconomic sections of Lakeland, Florida, Project ACHIEVE is a building-wide in-service training and implementation program that provides:

- student-focused, intervention-based problem-solving
- assessment and intervention techniques for students' academic and behavioral problems
- classroom-based social skills training
- a parent "drop-in" and training center
- data-based evaluation of student outcomes

Project ACHIEVE was promoted as an outcome-based process designed to address a number of the significant social and academic problems facing Jesse Keen Elementary School. The impact of the Project was assessed continually, using the outcomes below, comparing the Project's outcomes with conditions before the Project was implemented. For example:

1. The number of discipline referrals.
2. The number of students referred and placed in special education.
3. The number of students suspended and expelled.
4. The number of students retained in grade.
5. The cost to the district for providing compensatory educational services to students.

After the first year of Project ACHIEVE:

- Discipline referrals decreased by 67%, fighting decreased by 72%, and disruptive behavior decreased by 88%.
- Referrals for special education testing decreased 71% while academic and behavioral interventions by the regular classroom teachers significantly increased. (Special education testing costs an average of $1,400 per child.)
- Placements of at-risk students into special education classrooms decreased by 91%.
- The suspension rate decreased from 10% to 3%.

- Grade retention decreased from an average of 61 students per year to 1 student during two years.

- The district saved approximately $65,737 in excess costs for special education at Jesse Keen Elementary School in one academic year. Savings from reduced retentions equaled approximately $226,680.

Project ACHIEVE demonstrates the positive effects of integrated pupil services on at-risk children and youth. These effects demonstrate, through an outcome-based model, how pupil services professionals, including school psychologists, can assist Chapter 1 schools in providing effective schooling for at-risk students. The project defined outcomes that address the most salient issues in schools today (violence, aggression, disruption, distraction) and has achieved those outcomes in a cost-effective manner.

Clearly, successful models exist that meet the varied academic, social, emotional, and behavioral needs of at-risk school children. It is imperative that the reauthorization of ESEA include effective, efficient, and innovative approaches that invest in schools and the children they serve.

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In reauthorizing ESEA, NASP urges you to adopt the following recommendations. These proposals take into account the critical social, emotional, and behavioral needs of school children, which if not met, block students' ability to learn.

1. Utilize Federal funds to help equalize the funding for all schools to decrease the disparity among school systems and states. This will help reduce the negative effects of family and community poverty upon our nation's children.

Rationale:

Children should not be handicapped by where they live. Access to a decent education must be provided equitably throughout the United States. A recent Council of the Great City Schools report (1992) said urban schools are forced to deal with poor social and economic conditions with per-pupil funding that is hundreds of dollars less than the national average. Author and educator Jonathan Kozol (1992) says, "We can give terrific schools to all our children. The nation is vast. There is sufficient air for all our kids to draw into their lungs. There is plenty of space. No child needs to use a closet for a classroom. There is enough money. No one needs to ration crayons, books or toilet paper."

2. Develop cost-effective "one-stop-shop community schools" in all districts where intensive wrap-around health and mental health services are needed. These schools should provide all necessary health and human services that incorporate existing in-school pupil services. Services should include tutoring, aftercare, adult literacy and parenting classes, and early childhood education. Parenting supports and early childhood programs should become integral components of public education.

Rationale:

Today's families have fewer resources to provide for their children, fewer informal supports, less time to spend on their care, and more apprehension about their children's futures. According to the Center for the Study of Social Policy (1992), "These social and economic realities have potential implications that we can ill afford to ignore. They include the disturbing increase in the incidence of family stress and crises, child neglect, and childhood behavior disorders which are serious enough to require public intervention. Furthermore, if we permit the resources and supports available to families to continue to erode, the proportion of children who are undernourished, undereducated, underachieving, and unprepared for parenthood will continue to grow." The National Education Goals Panel has recognized that the education of at-risk children and youth must occur within the context of a home-school-community partnership. The Panel recognizes the absolute necessity of addressing health, mental health, family and educational issues simultaneously.

Schools should offer health care, social services, counseling and employment training to children and their families to stem increasing problems and enable children to begin school "ready to learn." Since all children are required to attend, schools are the natural setting in which to provide comprehensive services.

Schools need to become a "service center" where services are a basic, integral resource available to all children where a broad range of social, health and counseling services can be gathered under the same roof. The pupil services model already in place in most schools is a logical mode for delivery of services. School-based pupil services staff provide the combination of instructional, developmental, behavioral, social-cultural, and emotional consultation to teachers and parents to maximize instructional, classroom and home interventions critical to reducing behavior problems, truancy, retention and drop-outs. Their experience in working collaboratively lays the groundwork for expansion of this model.

3. Establish an Office of Coordinated Pupil Services within the U.S. Department of Education to provide the technical assistance needed to help states implement such programs.

Rationale:

An Office of Coordinated Pupil Services would facilitate the coordination of all Federal efforts for pupil services delivery in elementary and secondary education. In addition, the Office would gather and disseminate research, materials, and models effective in the delivery of pupil services. Presently, there is no office within the Department of Education to provide the necessary technical assistance to school systems that help them best utilize the pupil services knowledge available to strengthen the outcomes of Chapter 1, dropout prevention, bilingual education, violence and drug abuse prevention, special education, and other programs. There is no office within the Department to help coordinate and collaborate these services with other health, mental health, and social services funded and monitored by Federal agencies. The establishment of an Office of Coordinated Pupil Services makes economic sense in that it would reduce the duplication of services and increase efficiency. The Office would work closely with Offices of Elementary and Secondary Education, Special Education and Rehabilitative Services as well as Adult Education, Educational Research and Instruction, and Civil Rights. It is recommended that this office be placed within the Office of Intergovernmental and Interagency Affairs within the office of the Under Secretary. (The definition of Pupil Services presently in the Act might also be expanded to include school nurses to enhance the health component.)

4. Fund schools that provide programs that demonstrate progress in academic skills, social skills and constructive community values. Boost programs that make significant gains in prevention and reduction of behavioral problems and school dropout.

Rationale:

Addressing problems before they become crises is the most efficient and cost-effective way to meet the needs of troubled families and vulnerable children. Our educational system must prepare all children to become literate and motivated workers, caring family members, and responsible citizens. To do so, resources must be allocated to programs that are successful in providing the skills to be successful members of society. Effective programs should identify and assist potential student dropouts and to encourage children who have already dropped out to reenter school and complete their education. Programs should act as a referral source to help identify educational and/or occupational options and direct students toward appropriate resources within the community. In addition, these programs should include job training, instruction in life management skills, computer literacy and basic skills upgrading in reading and math. The success of such programs can be measured by a variety of factors, including: the number of students who complete the training program, complete their General Equivalency Degree (GED) or graduate, return to regular or alternative school, enter vocational training or obtain employment, improved attendance, completion of subsequent year(s) of school, and improved academic performance.

5. Fund programs based upon outcomes for each student. Measure individual student progress using curriculum and performance-based measurements.

Rationale:

Traditional testing is costly and does not measure the skills that are actually taught in the classroom. Curriculum based measurement has been successfully used to measure student progress that is related to instructional improvement. Because school psychologists are trained in measurement, child development, learning strategies, socialization, and motivation, they are able to translate the results of assessment to plan more effective instruction.

6. Reduce the number of categorical programs and establish coordinated interdisciplinary programs across all educational systems. Expand targeted in-service and other training to increase the tolerance for difference within the regular education program, reducing the fallacy that difference requires a "special" class or program.

Rationale:

Far too many children fall through the cracks between categorical program eligibility (e.g., special education and bilingual education). Establishment of interdisciplinary, coordinated programs that serve all "at-risk" students will reduce overhead, facilitate access to delivery, and maximize the longer term impact of such programs. Mechanisms to support the inclusion of these program services within regular education must be provided.

7. Model the effective use of conflict resolution by abolishing the use of corporal punishment in all public schools that receive federal funds.

Rationale:

Research has shown that the use of corporal punishment is ineffective in teaching new behaviors and reinforces the misconception that hitting is an appropriate form of discipline. A variety of positive and effective alternatives are available to maintain school discipline, and children learn more acceptable problem solving behavior when provided with the necessary models. All children, no matter where they live, should attend school free from the threat of physical harm.

WARREN COUNTY
COLLABORATIVE PROBLEM SOLVING PROJECT

School District:	Mason, Kings, Carlisle, Wayne, Springboro, Loveland, Lebanon, and Little Miami School Districts, and Warren County Career Center.
Personnel Involved:	School Psychologists, Principals, Regular and Special Education Teachers, School Nurses, School Counselors, and Regular and Special Education Supervisors.
Target Population:	At-risk students.
Funding Source:	South Western Ohio Special Education Regional Resource Center training grant, and local district grants for substitutes.
Program Description:	This program was implemented to increase the amount of successful collaborative problem solving which occurs in regard to student concerns. Each participating district targeted one building, where a team of 5-7 staff members were trained in collaborative problem solving. During the first phase, each team participated in a two-day training session to improve small group problem solving skills. During phase two, each team participated in a half day session for introduction of the program. During phase three, each team was given an opportunity to identify an activity, such as training an entire building staff or an on-site problem solving meeting led by a trainer. During phase four, building level teams identified the types of support they might need the following year to enhance efforts to improve services to at-risk learners. The program differs from training of intervention assistance teams in two ways: (1) an entire team is trained; and (2) the team is trained in problem solving skills.
Educational Outcomes/ Evaluation:	The improvement of educational services delivered to at-risk learners. The project is in its second year (1991-92). Data being collected includes numbers of collaborative problem solving efforts, pre- and post- data on attitudes toward at-risk learners, and multi-factored evaluation referral rates.
PPS Contributor:	Ohio School Psychologists Association.

PROJECT RISE
(REDIRECT, INTERCEPT, SUPPORT, EMPOWER)

School District:	Ravenna City Schools.
Personnel Involved:	School Psychologists, Teachers, School Counselors, Mental Health Agencies, Kent State University Practicum Students, and NEOUCOM Medical Students
Target Population:	At-risk 6th grade students.
Funding Source:	Ohio Department of Education, Division of Research and Communications, and At-Risk and Excellence Grant Program.
Program Description:	Project RISE provides intensive small group academic instruction and small group counseling support. A family involvement component includes a monthly "Breakfast Club" and weekend family activities. Community agencies provide direct services to the RISE students through educational presentations and small group counseling opportunities.
Educational Outcomes/ Evaluation:	Improved academic achievement and social behavior. Pre- and post- testing (between September 1990 and October 1991) on the Behavior Evaluation Scale indicated an average of 10-15 point improvement in students' behaviors.
PPS Contributor:	Ohio School Psychologists Association.

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In-School Suspension/Intervention Lab

School District:	Delaware City Schools.
Personnel Involved:	Business Teacher, 4 Teachers who supervise the lab instead of having another duty, School Psychologist, School Counselor, and Community Resource Persons.
Target Population:	At-risk students.
Funding Source:	United Way in Delaware County, Venture Grant from School District, Delaware-Morrow Mental Health and Recovery Services Board Grant, Ohio Department of Education Dropout Prevention Grant, and Ohio Department of Education Drug-Free Schools Grant.
Program Description:	Instead of a traditional in-school suspension program approach, this program teaches students coping strategies, social skills, and academic skills. Various individualized auditory training programs, with behavioral learning student response packets (Discipline Advantage Program), and academic materials are used and modified when needed. Other life skill interventions taught include conflict resolution, effective communication, test-taking skills, study skills, and career explorations/employability skills.
Educational Outcomes/ Evaluation:	Reduction of drop outs and out-of-school suspensions. First year results: Traditional in-school suspension room (1989-90): 306 students assigned. In-school suspension lab (1990-91): 280 students assigned. Drop-outs: (1989-90) - 74 students; 4.7% (1990-91) - 53 students; 3.2%
PPS Contributor:	Ohio School Psychologists Association.

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PRIMARY INTERVENTION PROGRAM

School District:	Chico Unified School District
Personnel Involved:	School Psychologists Paraprofessionals ... "Child Aide"
Target Population:	Kindergarten-3rd Grade "At-Risk" ... Children who "fall through the cracks" Typical Behaviors Shy-withdrawn Acting out-Aggressive
Funding Source(s):	State Grant Chapter I School Improvement Program Rotary
Program Description:	Children K-3 are initially identified through a short 12-item instrument completed by the classroom teacher. Once children are identified, they are paired with a child aide, or "special friend" with whom they spend 30 minutes per week for 12 - 15 weeks. The special friend receives weekly training and/or supervision by the school psychologist.
Educational Outcomes/ Evaluation	Annual evaluation is conducted using pre/post evaluation completed by the classroom teacher plus progress toward reaching goals as measured by mental health professional (School Psychologist). Changes noted include: Increase competence in children; decrease inappropriate behaviors; and, improvement in attendance.
PPS Contributor:	School Psychologist

NOTE: This program is currently being implemented in over 300 schools throughout California.

McManus Mental Health Program

School District: Chico Unified School District

Personnel Involved:
School Psychologist
Intern School Psychologist
Marriage, Family, Child Counselor Intern.
Paraprofessionals ... "Child Aide"

Target Population:
Kindergarten-6th Grade
Services open to all students. Children are triaged through bi-weekly meeting with Mental Health Team or through the Student Study Team.

Funding Source(s):
State Grant
Chapter I
School Improvement Program Funds
Rotary
Drug Free School Funds

Program Description:

High-risk students (preference is given to 4th- 6th grade) who need more intensive, therapeutic services are seen by either intern (individual or group intervention). Classroom units are presented to upper grade students. School psychology intern also conducts 3 reading groups, each meeting for 30 minutes, three times per week.

Children K-3 are initially identified through a short 12-item instrument completed by the classroom teacher. Once children are identified, they are paired with a child aide, or "special friend" with whom they spend 30 minutes per week for 12 - 15 weeks.

Parent education, counseling and referral is available.

Training and supervision are offered on an ongoing basis.

Educational Outcomes/ Evaluation

Annual evaluation of K-3 portion of program is conducted using pre/post evaluation completed by the classroom teacher plus progress toward reaching goals as measured by mental health professional (School Psychologist). Changes noted include: Increase competence in children; decrease inappropriate behaviors; and, improvement in attendance.

Evaluation of other components includes review of attendance records, review of academic records and teacher report.

PPS Contributor: School Psychologist

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THE PRIMARY MENTAL HEALTH PROGRAM

OVERVIEW:

The Primary Mental Health Program (PMHP) for the early detection and prevention of school maladjustment in children greatly increases the amount of effective services that elementary schools can offer. PMHP is a prevention prgogram, not a remediation program. It focuses on primary grade children (K-3) who are experiencing problems that interfere with effective learning (e.g., poor peer relations, frequent aggressiveness, withdrawn behavior, family crisis situations, lack of academic motivation, etc.). Research documents the association between such difficulties in early grades and ongoing behavioral problems. Early intervention promotes healthy student adaptation. With appropriate early intervention, children can make positive changes, before early behavioral warning signs become serious problems that require costly interventions.

PMHP began in one school in Rochester, New York in 1958 and now operates in more than 1000 schools world-wide. It has a distinguished reputation because it is documented as effective. It is also among the most extensively evaluated school-based prevention programs in the country. For almost two decades it has received funding for program development and dissemination activities from the National Institute of Mental Health . In 1984, PMHP received the prestigious Lela Rowland Prevention Award of the National Mental Health Asscoiation.

PMHP began in Connecticut in the 1983-84 school year when five districts were selected to initiate the program. The stated purpose of PMHP mission is

> To assist Connecticut school districts to better serve at-risk children through the availability of an early intervention, mental health program for the detection and prevention of emotional, behavioral and learning problems under Connecticut General Statutes Sections 10-76t-w.

In the 1992-93 school year, state-funded PMHP programs are operating in seventeen school districts throughout Connecticut and in thirty-eight schools. A number of school districts which initially received state start-up funds continue to implement the program with the district's general education funds.

WHAT PMHP IS:

PMHP is a non-instructional, general education program which seeks to promote a positive adjustment in primary grade children's early school experiences. It is a school-based program which detects and prevents school adjustment problems for students in grades kindergarten through grade three. It provides attention and extra support to youngsters who are having minimal to moderate difficulties in adjusting to school life.

WHAT THE PMHP IS NOT:

PMHP is not special education. It is not academic tutoring. It is not counseling for children with identified emotional problems. Other programs exist to address these issues.

HOW ARE CHILDREN SELECTED FOR THE PROGRAM?

After the teacher gets to know his/her students at the beginning of the school year, a systematic, identification process begins. Through the use of behavior-rating scales and conferences with school personnel, a decision is made as to whether or not a particular child could benefit from the program. The child's parents are then contacted for their input and permission for their child's participation.

HOW DOES THE PROGRAM WORK?

Goals for individual children are established by the counselor assistant and child's teacher with input from parents and other concerned school personnel. The specific goals evolve from the areas in which the child is perceived to be having difficulties. When the counselor assistant determines that the established goals for the child have been met, plans are made to terminate the child's participation. Such program termination usually coincides with the end of the school year.

A counselor assistant is a specially trained, non-judgemental adult chosen because he/she is a warm, responsible, caring person with proven ability to relate well to children. A counselor assistant supervises activities designed to meet each child's individual needs in a warm and nurturing manner. A counselor assistant sees the child during school hours, usually once a week for a designated time period (between a half an hour and one hour). The child may be seen individually or in a group, whichever is considered appropriate. Depending on the goals for the individual child, the sessions focus on educational, conversational and play activities designed to promote social development, self-esteem and adjustment to school.

It is expected that a counselor assistant will receive, at a minimum, one hour of direct supervision per week, at a designated set-aside time, from a school-based mental health professional (school counselor, school psychologist, school social worker). This supervisory time is used for joint planning of individual student goals and activities, review of student progress, problem-solving, informal education on relevant topics, general program planning and implementation, etc. In addition, the mental health professional is available for consultation on an "as needed" basis.

Parent involvement is encouraged and each school provides unique opportunities for parents to participate, to learn about the program, to learn about their child's needs and to acquire parenting skills, etc. Districts attempt to involve parents in different ways. All of the participating schools develop a system of communication with the parents. All parents are initially contacted to give permission to include their child in the program. They are invited to participate in progress and termination conferences and to share their input to program evaluation.

Other examples of promoting parental involvement include:

- providing parents with packets of information and activities aimed at strengthening parenting skills;
- placing a PMHP parent's shelf in the school's library that includes parenting education information;
- providing parenting workshops regarding communication and play skills;
- providing workshops and individual assistance to parents to help them meet the basic obligations of parenting and child rearing, to enable them to effectively supervise their children, to help them understand child development and to help them establish a home environment which supports learning.

With the 1992-93 school year the State Department of Education will again conduct a formal program evaluation and disseminate the results.

HEARING ON H.R. 6: THE DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE ACT AND TECHNOLOGY IN SCHOOLS

TUESDAY, MARCH 23, 1993

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., Room 2175, Rayburn House Office Building, Hon. Dale E. Kildee, Chairman, presiding.

Members present: Representatives Kildee, Sawyer, Roemer, Mink, Becerra, Green, Woolsey, Goodling, Gunderson, and McKeon.

Staff present: Susan Wilhelm, staff director; Jay Eagan, minority staff director; Diane Stark, legislative specialist; Tom Kelley, legislative associate; Margaret Kajeckas, legislative associate; Jack Jennings, education counsel; Lynn Selmser, professional staff member.

Chairman **Kildee**. The subcommittee meets this morning for a hearing on the Eisenhower Mathematics and Science Education Program and how technology can successfully be integrated into schools. Our witnesses are experts in these topics and will provide us insight into how we can improve education in these areas.

Before introducing our witnesses this morning, I want to recognize my friend and the ranking Republican on both the full Committee on Education and Labor and on this subcommittee, Mr. Goodling from Pennsylvania, who is a long-time friend of education. Mr. Goodling.

Mr. **Goodling**. Thank you, Mr. Chairman. Just to say that the Dwight D. Eisenhower Mathematics and Science Education Act is very near and dear to me, and we want it to do all the great things that we set out to say it would do and, I'm sure, will do, with your help and your guidance. So, I'm ready for the testimony.

Chairman **Kildee**. Before I introduce our witnesses, I would like to call attention to the fact that the dean of the School of Education of the University of Michigan, where I attended school and used to——

Mr. **Goodling**. Does that mean you didn't graduate?

Chairman **Kildee**. Where I graduated, got my Masters degree. Thank you, sir. The dean of the school, Cecil Miskell, is here, sitting in the back of the room, there.

I used to, years ago when Wilbur Cohen was dean, go down on Saturday mornings and talk to Wilbur. I tried to talk to him about education, but he generally wound up talking about the Kennedy administration and his days with the Kennedy administration. But we're happy to have you here.

Our witnesses this morning are Dr. Ronald W. Marx, director, Educational Studies Program, School of Education, University of Michigan–Ann Arbor; Dr. Linda Roberts, associate, Science, Education, and Transportation Program, Office of Technology Assessment; Dr. Andrew Zucker, program manager, Science and Mathematics, SRI International; and Ms. Mary Jane Stanchina, executive director, Six District Educational Compact, Tallmadge, Ohio. I think that's Tom Sawyer's district.

So, Dr. Marx, you may start your testimony.

STATEMENTS OF RONALD W. MARX, PROFESSOR OF EDUCATION AND CHAIR, EDUCATIONAL STUDIES PROGRAM, SCHOOL OF EDUCATION, UNIVERSITY OF MICHIGAN, ANN ARBOR, MICHIGAN; LINDA G. ROBERTS, SENIOR ASSOCIATE, SCIENCE, EDUCATION, AND TRANSPORTATION PROGRAM, OFFICE OF TECHNOLOGY ASSESSMENT, WASHINGTON, DC; ANDREW ZUCKER, PROGRAM MANAGER, SCIENCE AND MATHEMATICS, SRI INTERNATIONAL, ARLINGTON, VIRGINIA; AND MARY JANE STANCHINA, EXECUTIVE DIRECTOR, SIX DISTRICT EDUCATIONAL COMPACT, TALLMADGE, OHIO

Mr. **Marx**. I would like to start by talking a little bit about our conceptions of what students should be doing in schools as they're attempting to learn. And then I would like to move very quickly through two or three points. One of them is the kind of technological systems that we believe are important to try to sustain that kind of learning and some of the criticisms, although I won't go into much depth, of some of the current technology in that regard, then talk about some curriculum matters, about how curriculum might be organized, and then, finally, move into a very important topic, that of teacher development.

Our conception of learning—and I say "our." I'm talking primarily about the research group that I work with at the University of Michigan, although I think that we reflect the general movement of the field on educational technology, so I don't think I'm saying anything that's particularly idiosyncratic to the University of Michigan, but reflects the field's movement.

We believe that learning—and we believe this on the basis of empirical work and theoretical work. We believe that learning is an active, sustained inquiry, and that, in order for children to learn properly in schools, they need to be involved in communities of learning.

They need to work collaboratively with teachers and with their curriculum, and they need to be engaged in what we believe are, what we call authentic tasks. That means that they ought to be working on activities in school that look like real-world activities rather than artificial and contrived kinds of activities that are often the case in schools.

So, with that kind of background about what learning is all about, authentic, sustained, and collaborative, we think that the technology that we ought to be using in schools, technology based on computers, video, audio, animation, a whole range of new technology devices, ought to be technology that allows for this kind of collaboration, this kind of sustained and deep, thoughtful work.

So the kind of work that students should be doing in schools should be things like designing activities, creating pieces of software, creating films, videos, projects, things that they can demonstrate to the rest of the world, not just do for their own sake.

This vision of technology that we have is not based on a metaphor of technology as an electronic page-turner. We don't think that the use of computers to turn pages for kids, rather than having them turn their own pages in books, is a particularly useful metaphor for technology, nor do we believe that computers in schools ought to be used as electronic multiple-choice test-givers.

Again, that would be a terrible waste of the energy and money that, I think, has gone into development so far and needs to go into further development in order for technology to be useful for kids to do the kind of learning that we think they need to do.

Now, in order to realize this kind of interactive use of technology, we think that there have to be some fairly dramatic changes in the way curriculum is designed and developed and the way teachers work with kids. In our work—although our work is just one version of this; other academics, other scholars working in other universities with other teams of teachers have come up with slightly different metaphors. I'm not going to quibble about that. We have those fights in our academic settings, but not here.

We talk about what we call project-based learning, where we try to get kids working—and we're working, now, in middle school science—we try to get youngsters working on long-term investigations of phenomena like acid rain, investigating what's in their water, how would you wire a structure for light and heat?

These are things that take a long time, very often 6 to 8 weeks of class time, for children to work on these long-term projects, and we think that we can build technology to support this long-term investigative effort.

Similarly, with teachers, we believe that teachers need to have what we call design tools. If you look around business and industry nowadays, you see most professionals having very sophisticated tools at their fingertips to design and create their work—computer-aided manufacturing, computer-aided design, all sorts of very fancy tools, electronic banking, and so on. Teachers don't have that.

If you look right now at classrooms today and the work of the teachers, they still are a paper-pencil technology, and we think that teachers need to have these kinds of design tools built for them, and some of the work that we do at the University of Michigan is involved in building these kind of tools.

For example, we have a tool that we call Instruction By Design that we use in our preservice teacher education program to prepare elementary teachers. In that program, these student teachers learn how to use a technological tool to integrate the learning that they do in their science course and their education courses in their work in the schools as they do their practicum.

As they use this tool, they help integrate and they use the technology in a way that we think the students in school should use it. So the teachers first are put into a situation where they learn how to use technology tools in a design environment, and then they can use them with their students.

I have two or three points that I want to make in closing. One of them is that in order to do this, in order to implement technological innovation of this genre in schools, requires a fair amount of technical support, not only the acquisition of the machines, but the provision of technical support to help teachers learn how to use these machines and actually to use them.

For example, this morning, when I was doing some electronic mail at the University—I shouldn't say this in public—the University of Michigan system kicked me off right in the middle of my transmission.

Well, I'm used to this sort of thing happening; any E-mail user knows it. If you have 30 kids in a classroom, and you're all waiting to hear from another classroom across the country, and your E-mail kicks off, you've got a big problem. So, technical support is an important part of this.

Secondly, what we believe to be a better way to teach, as I've said, and a better way to organize curriculum, requires a rather major change in the way teachers view what they do and in the way schools are structured and organized to get that work done, so I believe that there's going to be a tremendous need for professional development support for teachers over a sustained period.

There are no quick fixes here. There are no two-week workshops that a teacher can take in the summer and, all of a sudden, come back in September looking very different. There are going to have to be sustained efforts, lasting 2, 3, 4, or 5 years, to develop the kind of technological support and competence within a teaching staff in order to do this.

Thank you, sir.

[The prepared statement of Ronald W. Marx follows:]

Integration of Technology in the Schools

Submitted to the House Subcommittee on Elementary, Secondary and Vocational Education

Rep. Dale Kildee, Chair

Prepared by

Ronald W. Marx, Ph.D.

Professor of Education and
Chair, Educational Studies Program

School of Education

The University of Michigan

March 23, 1993

This testimony is based on the work of a group of researchers and teachers at The University of Michigan. Principal investigators are Phyllis Blumenfeld, Joseph Krajcik, Ronald Marx, and Elliot Soloway. This work is partially funded by The National Science Foundation (grants TPE-9153759 and TPE-9150020) and The University of Michigan. All views are solely the responsibility of the research team.

Technology has the capacity to significantly improve the way teaching and learning takes place in the nation's schools. New computing and communications technologies now coming available -- at the consu[illegible] -- support the revitalizing and redesigning of our educational system. Just as these technologies provide the infrastructure in which modern businesses operate, these technologies can serve to support a broad range of learning and teaching activities. For example, based on the idea that one learns through using ideas, students can use computing to engage in a number of generative activities including designing, building, analyzing and revising. Using computers, students can create interactive multimedia documents as well as models and simulations and they can use telecommunications networks to support all manner of conversations -- from low - bandwidth networks that support text-based electronic mail, to higher bandwidth networks that support two-way, video based exchanges.

A baseline computing and communications environment is needed to support the functionality described above. In particular, in our research group we envision that in the coming years every student from kindergarten to twelfth grade will have a computer notebook (age appropriate, of course), and that capabilities will be built into classroom furniture to permit connections to electronic networks. Additionally, higher-power workstations should be available along with peripherals such as scanners, video digitizers, and printers; wireless networks may well be used instead of hard wired classrooms. In effect, these technologies are becoming personal technologies. In present school environments it is inconceivable to think of not having pens, pencils, paper, and books; for the coming generations, computing and communications technologies are the digital versions of pens, pencils, paper, and books.

Unfortunately, here is an enormous gap between the technological infrastructure of schools and that of the world of work. If we are preparing our young for the 21st century, we need to reduce that gap: students and teachers need to be working with the tools of the 21st century - now. There is also gap between what currently exists in schools and what needs to take place in order to realize the vision sketched here. Clearly, schools need more modern, state-of-the-art technological tools (e.g., computers, calculators, CD ROM players, interactive media, telecommunications networks, and software that fosters thoughtful learning). In addition, there are very real human barriers to change (e.g., teacher preparation programs, opportunities for professional development , teacher beliefs and practices, parent and community concerns). The pages that follow discuss some of these issues.

Learning

We base our work on advances in understanding the psychology of learning and motivation. Briefly, recent conceptions of learning and motivation assign primary importance to the way in which learners attempt to make sense of what they are learning, rather than to the way they receive information. Learning is the result of active, effortful construction of meaning rather than passive, receptive accretion of knowledge. Coherent understanding and usable knowledge is possible when learners develop elaborate models of the world and, through their work in school and beyond, are engaged in activities that require them to use this knowledge. These models are fostered through active learning via engagement in authentic tasks in a social context. The coherent understanding and usable knowledge that we envision is fostered through communities of learners working together to negotiate meaning. This idea is in the same vein as recent approaches to the world of work, in which teams of workers at several levels of authority in an organization work together to define and solve problems. As well, motivation is not viewed as traits that learners possess or rewards granted by teachers or parents. Rather motivation consists of students' images of themselves as capable learners, their engament in authentic tasks, and work in supportive and demanding classrooms where risk and intellectual adventure are required. Finally, rather than basing evaluation on sterile multiple choice tests, assessment should be more authentic, that is, the assessment tasks should resemble activities that students might do as they learn and as they apply their learning to real world problems rather than tasks that would be found only in a school setting.

In our view, technological applications to the classroom must meet the criteria of learning, motivation, and assessment listed above. Anything less will result in wasted dollars and increased cynicism that schools are hopelessly mired in mediocrity and cannot be changed by the incorporation of technology. We do not believe this. New developments in highly interactive technologies that have been applied so productively in other fields (e.g., computer aided design and manufacturing, automated banking, interactive video games) have not been applied to the daily activities of teachers and students in school. This lacuna must be addressed by developing such highly interactive design and construction tools for teachers and students and incorporating them into daily work in school. There is much to be celebrated in schools today and, with determination, creativity, risk taking, and sustained effort, American schools can be improved.

Technology

Media technologies dominate the lives of vast numbers of school children. Children from the most sophisticated homes as well as those from poor circumstances are highly attuned to video and audio media, and many are captivated by electronic games, simulations, and home computer and audio systems of awesome complexity and refinement. Although most educators agree that multi-sensory experiences can provide highly desirable approaches to learning, generally the preparation of teachers and the equipment used to prepare them is inadequate to compete with the allure of fast-paced, commercialized but shallow mass media. Moreover, when technology is used in schools, it often is not used in a manner analogous to the way it is used in the workplace. Our vision is to create schools that resemble highly sophisticated workplaces in which computing is ubiquitous and teachers and students use interactive technology to design and create the artifacts of education.

Sophisticated and integrated technologies offer the promise of great educative power. While video can bring us both the sights of the real world and illustrations of the abstract, it does so in a passive way. However, the interactive power of computers and digitized video enhanced by interactive telecommunication networks and databases give educators the opportunity to create generative environments for schools of tomorrow. In such schools the learner has an exponentially-increased power to construct understanding and apply principles to solve problems. In the schools of tomorrow the activities of the pupils resemble the work of managers, designers, scientists and technicians. Pupils can use simulation programs to design models of how they think the world works, they can create multimedia documents to communicate their developing understanding in a more powerful manner, and children can be empowered to communicate with other pupils and instructors in networks that can expand around the world. In short, we see an unparalleled opportunity in multimedia, interactive technology for the benefit of schools and education.

This vision of technology in classrooms is not derived from a metaphor of the computer as electronic page turner. It is relatively easy to incorporate new technologies into schooling if the use of these technologies is to present electronic books or to automate multiple choice tests. However, such an approach to technology, while perhaps relatively easy to implement, will not lead to uses of technology that take advantage of technology's power.

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It is through the generative power of technology to foster generative and creative work that thoughtful learning can be supported. Yet these more promising forms of technology are far more difficult to implement in classrooms. We think that substantial changes need to be made in the way curriculum is conceived and developed, and in the work of the teacher. In fact, we take a very strong position [illegible] regard. The exhilarating promise of new technologies will not be realized if curriculum and teaching is not altered dramatically.

Curriculum and Teaching

There are many ways to design and develop curriculum just as there are many ways to teach it. We do not claim that there is one best way to approach curriculum and teaching. However, we do think that curriculum and teaching needs to be consistent with the principles of learning that we discuss above. Consequently, for example, we do not think that drill and practice approaches to teaching that lead to memorization of facts as the primary result of learning are consistent with these principles. In our work in middle school science, we focus on engaging learners in inquiry through what we call project-based learning. (The work described here is partially supported by grant # TPE-9153759, Enhancing the Teaching of Project-based Science, from the National Science Foundation.) Project-based learning is a comprehensive perspective focused on teaching by engaging students in investigation. Within this framework, students pursue solutions to non-trivial, authentic problems by asking and refining questions, debating ideas, making predictions, designing plans and/or experiments, collecting and analyzing data and/or information, drawing conclusions, communicating their ideas and findings to others, asking new questions, and creating artifacts. As such, project-based learning places students in realistic, contextualized problem solving environments. In so doing, projects can serve to build bridges between phenomena in the classroom and real life experiences; the questions --- and answers --- that arise in their daily enterprise are given value, and are shown to be open to systematic inquiry.

There are three essential components of projects: 1) They require a question or problem that serves to organize and drive activities; 2) they result in artifacts, or products, that address the question/problem; and 3) they involve students, teachers, and members of society collaborating together as a community of inquiry. Students can be responsible for the creation of both the question and the activities, as well as the nature of the artifacts. In addition, teachers or curriculum developers can create questions and activities. However, in neither case can these be so highly constrained that the outcomes are predetermined, leaving students with little room to develop their own approaches to answering the question. Students' freedom to generate artifacts is critical, for through this process of generation, students construct their knowledge: the doing and the learning are inextricable. Artifacts represent students' problem solutions which reflect emergent states of knowledge and understanding. Because artifacts are concrete and explicit (e.g., a physical model, report, videotape, or computer program) they are shareable and critiquable. This allows others to provide feedback and permits learners to reflect upon and extend their emergent knowledge and revise their artifacts. In this manner, the classroom in which project-based learning is primary becomes a community of inquiry. Project-based learning melds ideas about learning and teaching into a coherent framework by focusing instruction on a problem around which central concepts within the curriculum can be integrated.

Examples of published projects include those produced by the Technical Education Research Center and the National Geographic Society related to acid rain and solar energy. These particular projects focus on important environmental problems (although there is no necessary reason why projects need to focus on applied issues), involve students in data gathering and analysis, examine local industry and laws, and make use of new technologies, including microcomputer packages and telecommunications, with which students can gain information as well as share their findings with others outside the classroom. Similar projects built on a smaller scale can be developed by classroom teachers or teams of teachers (for example, how do you light different kinds of indoor and outdoor structures?). Whether the project is developed by publishers, teachers, or students, activities associated with these projects should be designed to increase the chance that learners will find them interesting and meaningful and that they will construct deep level understanding of the content.

Challenges to the Realization of New Technology in Schools

Before teachers can use technology in the ways described here, they have to be able to use it this way for their own learning. It is astonishing that there are so few new technological tools for teachers to use compared to other professions. In many ways, the technological support for teachers today is not much different than decades ago. Many, if not most teachers still plan their units and lessons with paper and pencil. They might use a word processor on a personal computer to type their notes, but multimedia designs and interactive presentations are still rare. If they do use a computer, they probably bought it themselves. There are very few schools that have the level of technological sophistication that can support teachers in ways described here. For example, in our work with middle school science teachers in southeastern Michigan, we needed to connect each teacher's classroom with a telecommunication network so that the teacher and students could transmit data, research reports and letters to other schools. We also provided the teachers access to an electronic mail system to facilitate communication among them. Even though our research and development grant from the National Science Foundation provided the funds for the installation and rental of phone lines to the classrooms, we had enormous difficulty getting school officials to authorize the installations. In some instances, we were successful when we referred to the connections as "data transmission lines" instead of phone lines. (This is not intended to denigrate the school officials. There are many reasons to worry about the security of these lines in classrooms, and the principals and central office administrators must consider these other issues. The point is that there are many structural and organizational impediments to technological innovation in schools.)

Many teacher education programs acquaint their students with computer technology. Most teacher education graduates today are able to use word processors and many can use other software applications such as simple graphics programs or data bases. Some are able to use spreadsheets for record keeping and grading. These applications are significant, although they are unlikely to lead to substantial changes in the way in which the teacher works with learners.

However, there are some colleges and universities around the country that have made significant changes in this scenario. At The University of Michigan, we have developed an approach to preparing elementary school teachers that focuses on the teaching of science. This program is distinguished by several features. First, at the heart of the effort is a software tool that we call IByD--Instruction By Design. (The work described here is partially supported by grant # TPE-9150020, Elementary Science Teaching: Integrating the Knowledge Bases, from the National Science Foundation.) The students learn to use this tool in their first term in the program (in their junior year) and they use it through their studies as a way to design units of instruction in science and other subjects. IByD is designed in such a way that the students incorporate what they learn in a wide range of courses into their work. In effect, working with IByD fosters the kind of coherent, authentic and situated learning that we argue is necessary for learners. In addition to their work with IByD, there are three other central features to this program. The students work in a "cohort", the same group of 20-25 students enroll in most of their classes together and they proceed through the program together. In other words, they create among themselves a learning community in which they develop their understanding of teaching and schooling along with their competence as novice teachers. As well, each term of the program includes a practicum placement in an elementary school, thus insuring that the university based work can be rendered authentic through the students' work with children. Finally, courses are arranged in such a way that students take some of their teaching methods classes at the same time that they take their academic courses in the physics and chemistry departments. In this way, their understanding of science and how to teach science to children develops together, as it is supported by their cohort group, instructors, work in real classrooms, and IByD designs.

The infusion of new technology and innovative teaching practices into schools also requires substantial professional development efforts for current teachers. In our work, we have found that several areas of concern need to be addressed for success. First, interactive, multimedia technology requires the user to learn new systems that are often not intuitively understandable. For example, when using telecommunications systems it often the case that technical problems can only be solved by the highly experienced user. Because of these technical issues, it is imperative that technical support be available in person or, at the very least, be easily accessible. We have found that commercial telecommunications software designed for use by elementary and middle school teachers and their students often have bugs in them that can cause serious impediments to their use. It would be very unusual for most teachers to be able to work their way through these problems without assistance. Also, when the teacher has a classroom of 30-35 youngsters ready to work on the computer, she does not want the software to get in the way of the learning. Any programs that hope to increase the use of new technologies must include sufficient technical support for the teachers to feel confident in their use of the technology and to feel that immediate support is available if problems arise.

Second, innovative programs need to be funded for sustained change efforts. It is likely that substantial changes in teachers' beliefs about technology, and the curriculum and teaching innovations we advocate here, will take several years to develop. We are learning through similar efforts around the country that there are no quick fixes to our educational problems. In our work, we are finding that, even with teachers attending monthly, full day work sessions, designing science projects for their classes, writing journals that reflect about their understanding, and collaborating through telecommunications, change is difficult to achieve and hard to sustain. For change to occur, teachers need the opportunity to learn about new practices; be exposed to expert consultation about new pedagogy and new technology; reflect on their practices and share these reflections with peers; and plan, design, and orchestrate new learning experiences for their students. This process then needs to cycle over several years for significant professional development to occur.

We believe that this process can be facilitated with the development of new, highly interactive multimedia systems, such as ones that we are currently developing for middle school science teachers. For example, we have created tools for teachers that will help them create a vision of classrooms of tomorrow as well as providing an environment in which they can design or modify existing projects. Our system, the Project Support Environment, allows teachers to gain visions of innovative practice by accessing a computer-based, multimedia library of exemplary practice and teacher change. We also have modified IByD to be used by practicing teachers to adapt and design projects. Yet even with such new tools, we think that the profound changes that are needed will take several years to realize.

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The Future

Improving schools in America requires dedication, vision, courage, and commitment. We have available, even now, many technological tools that can be used to improve teaching and learning, and which can help to overcome some of the limitations tha have been the focus of concern in [illegible]. With the dedication of resources and the support of government, the next decade can be witness to the evolution of schools in America from the 19th to the 21st century.

Note

The following teachers and researchers collaborate on the work upon which this testimony is based.

Pamela Bentley	West Bloomfield Schools
Merrie Blunk	The University of Michigan
Kathy Brade	The University of Michigan
Tim Breen	The University of Michigan
Barbara Brown	Ann Arbor Schools
Deborah Peek Brown	Detroit Schools
Gary Canty	Willow Run Schools
Al Donaldson	Lansing Schools
Barbara Ellies	Ann Arbor Schools
Bob Geier	The University of Michigan
Connie Harvey	Willow Run Schools
Pam Hayes	The University of Michigan
Betty Hopkins	Willow Run Schools
Beverly Kelley	The University of Michigan
Robert Kopicko	West Bloomfield Schools
Barbara Ladewski	The University of Michigan
Marty Maehr	The University of Michigan
Karen Mills	The University of Michigan
Annemarie Palincsar	The University of Michigan
Gary Poole	Willow Run Schools
Garey Perry	Ypsilanti Schools
Reuben Rubio	The University of Michigan
Carolyn Scott	Ann Arbor Schools
Kimberly Shaw	The University of Michigan
Mary Starr	The University of Michigan
Sam Still	Willow Run Schools
David Thau	The University of Michigan
Linda Wood	Detroit Schools
Carla Zimbel	The University of Michigan

Chairman KILDEE. Yes. Ms. Roberts.

Ms. ROBERTS. Thank you very much, Mr. Chairman. I would like to submit my written testimony for the record and very briefly highlight a number of key points.

First of all, I would like to say that I strongly support all of the points raised and discussed by Mr. Marx. He's right on the mark, if you will, in terms of where the substantive opportunities are to really use technology effectively.

As you know, OTA has been tracking technology use for a decade, now. I can't believe it's a decade, but—sometime it feels like it's more than a decade, and sometimes it feels like it's just a year. What we have seen in terms of the schools' acquisition of technology is in many ways a very good-news story.

The access to computers and, now, telecommunications technologies actually is moving at a much faster pace than many would have anticipated 10 years ago. And, in my testimony, I give you some examples of the kinds of numbers and the percentage of schools that even have the most newest of the technologies already beginning to be available to them.

As you know, today's computer-based technologies go, really, so much far beyond the early electronic textbooks. In addition to text, we have computer-based systems that provide access to high-resolution pictures, sound and voice, and full-motion video, and all of these capabilities can make a tremendous difference in the way in which youngsters can learn science or mathematics or social studies or any part of the curriculum.

But equally important is that the technology systems we have can be self-contained in classrooms, or they can, in fact, link one classroom to another, link schools to other schools and, I think, perhaps most importantly, link schools to the community, to the real world.

If we're going to do real-world science or we're going to do real-world health assessment, if we're going to think about our lives, we can't just be locked in our classrooms, and we have to have access to a much broader base of information resources.

So, from computers to electronic networks, schools have, I think, demonstrated a remarkable willingness to invite these technologies into the classroom, and they have acquired this technology despite tremendous and real constraints on local budgets, an ever-changing and, I think, really difficult technology marketplace to operate in, and, as Ron just pointed out, an institutional setting that really does not easily adapt to technology use.

It's as if we say, "We're not going to change anything else. We're just going to make this technology adapt to the way we've been running schools for the last 50 to 100 years," when, in fact, we really, truly, have some opportunities to do things differently.

However, I think that the future for technology is really very promising for a number of reasons, first of all, because we have learned a lot in this decade. We really have learned that technology is a tool rather than a solution.

We are beginning to think about—and by we, I mean the education community, the educators, the teachers, the administrators, the people at the local level, principally, and the people who train teachers, the people who have a stake in creating the next generation of teachers and resources. We are thinking, and we are beginning to take advantage of the flexibility and versatility of the technology, truly discovering and building the applications that meet the needs of learners in diverse settings.

And again, I want to emphasize that we have ways to link learners and support teachers and connect them, both of them, students and teachers, connect them to information and experts in ways that we just simply have not had before.

As we consider, as this committee considers how to exploit the power and versatility of technology now and in the future, I would like to reemphasize a number of issues.

First, no matter what the technology is, it's only effective in the hands of a well-trained, enthusiastic, and well-supported teacher. I can't begin to emphasize that it isn't enough to just put technology in the schools.

I have been saying this for 10 years, based on our studies. I was just in Massachusetts this past weekend and had all of this come back to me as I was talking to teachers who were actually trying to get on to the Internet and use a variety of what they think are some very useful information resources in the teaching—in this case, it was foreign language and science and mathematics.

Every one of them talked about the fact that it takes a lot of effort to use technology, and it takes having someone there to help you when you need help. So, I can't—not reinforce what was just said before.

The second point—and let me just say that I think that the reauthorization of the Elementary and Secondary Education Act provides Congress with the opportunity to make this aspect of teacher training and technology a national priority.

But the applications that become available are also critical, and changes in the curriculum and increased demands for higher order thinking and more authentic performance in the various content areas means that content is the main area to be addressed in the next generation of software and multimedia products. And on-line electronic conferencing, electronic field trips, and access to remote libraries of information can enhance all areas of the curriculum.

Third, with the push for education reform and the reauthorization of the ESEA, it is time for Congress to consider the role of technology in specifically meeting the national education goals and students' diverse learning needs.

There are several really important research directions that OTA has identified in a number of its reports. First of all, there are the tools that can help students move beyond the low-level tasks, beyond just simply drill and practice, and help them concentrate on more demanding problem-solving skills.

Second, and perhaps as important, are the development of new assessment technologies that enable us to track learning in different ways or diagnose students' conceptual understandings or measure the attainment of their complex skills. Again, teachers need the design tools and kits that help them create and customize teaching materials and learning opportunities.

And finally, if we really are serious about developing access to rich and diverse information resources, electronic libraries, on-line data bases, national networks of information, one of the areas that we have to focus on is making these resources easily accessible to teachers.

You know, it's kind of like the VCRs that we all don't know how to program at home. There's no reason for those machines to be so difficult to use, and I think that designing the information networks means designing the interfaces as well.

Finally, it is time to develop a coordinated Federal policy for education and technology that allows schools to acquire the technology they need, including helping them fund the acquisition of that technology, helping them support teachers' professional development, building research into practice, and, finally, tying technology directly into the process of school reform and restructuring.

Thank you very much, Mr. Chairman.

[The prepared statement of Linda G. Roberts follows:]

OTA TESTIMONY

INTEGRATING TECHNOLOGY INTO AMERICA'S CLASSROOMS

STATEMENT OF DR. LINDA G. ROBERTS
Senior Associate
Science, Education, and Transportation Program
Office of Technology Assessment
Congress of the United States

Testimony Before the
Subcommittee on Elementary, Secondary and Vocational Education
Committee on Education and Labor
U.S. House of Representatives

March 23, 1993

Congress of the United States
Office of Technology Assessment
Washington, DC 20510-8025

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Thank you for the invitation to testify before the Subcommittee on Elementary, Secondary and Vocational Education. I would like to take this opportunity to give the Committee an overview of the current status of schools' use of new information technologies in teaching and learning. My remarks draw on OTA's studies of educational technology.[1] These two reports, plus related work in science and mathematics education[2] and the role of testing in American schools,[3] provide a comprehensive picture of schools' experience with technology over a decade.

Although the first attempt to use computers with school children dates back to 1959, and early experiments with distance learning by satellite occurred in 1973, a dramatic infusion of computers in our schools began in the 1980s and the increase has continued (see figure 1). The most recent data suggest that schools' acquisition of CD-ROM technology, laserdisc, local area networks, satellite dishes, and modems is following a similar trend (see figure 2).

Early experiments with computers and telecommunications involved few students and teachers, and the technologies had very limited capacity. Today computer-based technologies go far beyond early "electronic textbooks." In addition to text, computer-based systems now have access to high-resolution pictures, sound and voice, and full-motion video. The systems can be self-contained in classrooms or can include technology that links one classroom to another, to other schools, to other communities, and most importantly, to other information resources.

This linking technology[4] is especially important, because it goes beyond the classroom and can enlist the Nation's network of science centers, museums, and other informal educational programs. It can also link schools to our colleges, universities, and research centers. See figure 3 and table 1.

From computers to electronic networks, schools have demonstrated a remarkable willingness to invite new information technologies into the classroom, and to see how these interactive cognitive tools and information connections could be applied to teaching and learning. The schools' acquisition of educational technology has come about despite the constraints on local budgets, an ever-changing and often chaotic technology marketplace, and an institutional setting that does not easily adapt to technology. In comparison with other countries, our widespread diffusion of computers, continuing acquisition of interactive technologies, and willingness to experiment puts us at the forefront of implementation. The installed base of computers provides a strong incentive for development of educational software, and our most innovative software applications have become models for projects in other countries.

Is technology effective? The answer is -- it can be. OTA's assessments make clear that under the right conditions new interactive technologies contribute to improvements in learning -- from helping to build basic skills through drills offering self-paced practice, to directing student discovery through simulations in science, mathematics, and social studies, to encouraging cooperative learning as students work together on computer projects in the classroom or on electronic networks across the continent. There is no one best use of technology, but there are many promising applications for all learners – at-risk students, the gifted, those with special learning needs, and others. The varied capabilities of the technologies are key to their power. I'd like to provide three examples.

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[1] U.S. Congress, Office of Technology Assessment, *Power On! New Tools for Teaching and Learning* (Washington DC: U.S. Government Printing Office, September 1988); and U.S. Congress, Office of Technology Assessment, *Linking for Learning: A New Course for Education* (Washington DC: U.S. Government Printing Office, November 1989).

[2] U.S. Congress, Office of Technology Assessment, *Educating Scientists and Engineers: Grade School to Grad School* (Washington, DC: U.S. Government Printing Office, June 1988).

[3] U.S. Congress, Office of Technology Assessment, *Testing in American Schools: Asking the Right Questions* (Washington DC: U.S. Government Printing Office, March 1992).

[4] Some telecommunications technologies, like educational television, Instuctional Television Fixed Service (ITFS), microwave, and cable broadcast have been around for many years. Others, like satellite and fiber optics, are newer.

1. At-risk youngsters have varying achievement levels and many are out of step and behind their peers in mastering both skills and course content. Computers can provide individualized practice necessary to develop specific skills. For at-risk youngsters there is special value in practicing at one's own pace until the learning takes hold, rather than being moved along in lockstep with the rest of the class before mastery has been achieved. At the same time, technology can easily maintain records of student progress, enabling teachers to better understand students' stumbling blocks, gaps in learning, and misconceptions. Skill practice is not enough however; these students need more powerful, rich, and versatile resources that can be provided by today's computer and multimedia technology.

2. Technology supports learning to read and write – fundamental needs for literacy and the foundation for learning in all subjects. Key strategies that are essential for reading, critiquing, and improving written work are being incorporated into software programs. Students who succeed in their own personal communications often change their attitudes about reading, writing, and school. Through the use of desktop publishing or electronic networks for writing, students write for a purpose, communicate with their peers, and come to see that they can move beyond the limitations of their own environment.

3. In the teaching of math and science, technology brings new resources into the classroom. Students measure acid rain, track the effects of recycling household trash, and take part in a simulated mission in outer space. With access to electronic networking and software databases, youngsters conduct collaborative research with other student scientists around the country. Some projects link students with working scientists.[5] They learn to value themselves as contributors to solving problems of importance to their community and their country. Technology offers enormous potential for attracting more students into science. This is because it enables them to actually "do science" – gather data, participate in experiments, work out hypotheses, and interpret findings.

In the course of acquiring new technologies, schools have had to make difficult choices, often asking the question: how much do new instructional technologies cost and are they worth it? Schools' investment in technology is sometimes a tradeoff between new learning tools and traditional texts. In other instances, teachers have been given the choice of more computers or a teacher aide. OTA found evidence that computer-assisted instruction can be a cost-effective method to raise achievement test scores in the short run. For many educators, however, the appeal of the technology is based on the hope that it will change the way students learn and have profound, long-term effects.

The future for technology is very promising because we have learned a lot in a decade. The original assumptions that we could use computers as automatic textbooks or as replacements for teachers were incorrect. We are learning to think of technology as a tool rather than a solution. We are also learning to take advantage of the flexibility and versatility of the technology, discovering applications that meet the needs of learners and teachers in diverse settings. And we have new ways to link learners, support teachers, and connect to information and experts beyond the four walls of classroom.

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[5] Earlier this month, more than 700,000 students "traveled" via satellite to the Sea of Cortez and Mexico's Baja California Sur, to study photosynthesis and chemosynthesis processes 6,000 feet underwater, with noted oceanographer Robert Ballard.

But these gains in education pale in comparison to those in business, the military, medicine, and higher education. Only a handful of classrooms have one computer for each child and another one for the child to use at home. (Figure 1 shows the national average to be 1 computer for every 16 children in U.S. K-12 public schools.) And few schools have been built or remodeled to take advantage of computer and networking capabilities. While most teachers want to use computers, few consider themselves adequately prepared to teach with them. As we consider how to exploit the power and versatility of technology now and in the future, several issues must be addressed.

First, technology is only effective in the hands of well-trained, enthusiastic teachers. There is a small, but growing cadre of "accomplished teachers" in our schools who have been able to integrate computers into classroom practice.[6] Teachers need training, time, and support to learn and incorporate technology into their teaching. When these elements come together, teachers report that using computers, participating over an electronic network, or becoming a distance learning teacher has changed their teaching in fundamental ways, and they become more like coaches and facilitators. Efforts to expand the use of technology must include necessary training and support to the overwhelming majority of teachers who are not yet "accomplished" users. The reauthorization of the Elementary and Secondary Education Act (ESEA), provides Congress with the opportunity to make this aspect of teacher training a national priority.

Second, software development will also be critical. Changes in the curriculum and the increased demands for higher order thinking skills means that content is the main problem to be addressed in the next generation of software and multimedia products. Although there are thousands and thousands of educational software products on the market, we need applications that tie directly to curriculum reform efforts -- be they mathematics, science, or social studies. The increased capacity of hardware and advances in programming have removed many technological barriers, but economic risks in the market lead software publishers to play it safe. Public-private partnerships (largely supported by NSF) have thus far been very successful.[7]

NSF innovative projects have focused on mathematics and science; other areas of the curriculum, including the arts and humanities, need attention as well. Multimedia technology systems lend themselves to applications that allow students to study works of art, literature, and music, and pursue interdisciplinary studies as well. The same technologies provide students with tools to create graphic, sound, and visual images. Online electronic conferencing, electronic field trips, and access to remote libraries of information can enhance all areas of the curriculum.

Third, with the push for educational reform and reauthorization of the ESEA, it is time for Congress to consider the role of technology in meeting the National Education Goals and students' learning needs. There are many important research directions, including development of: 1) tools that help students move beyond low-level tasks and concentrate on more demanding problem-solving skills; 2) new assessment technologies that track learning, diagnose students' conceptual understanding, and evaluate the attainment of complex skills; 3) design tools and kits that enable teachers to create and customize their own teaching materials; and 4) design of user-friendly interfaces for collaboration over networks and for accessing multimedia libraries of information.

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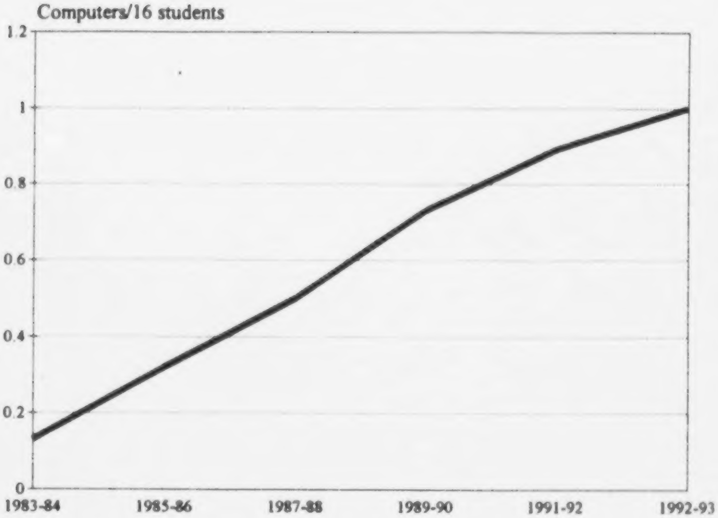
[6] See Karen Sheingold and Martha Hadley, Accomplished Teachers: Integrating Computers Into Classroom Practice (New York, NY: Bank Street College, Center for Technology in Education, 1990).

[7] One example is the National Geographic Kids Network materials created jointly by the Technical Education Research Centers in Cambridge, Massachusetts, and the National Geographic Society.

Finally, now is the time to develop a coordinated Federal policy that allows schools to acquire the technology they need, supports teachers' professional development, builds research into practice, and integrates technology into the process of school reform and restructuring. In addition, it is very important that projects along these lines build in careful evaluation, with a focus on what works and which elements can be replicated in other settings.

Figure 1

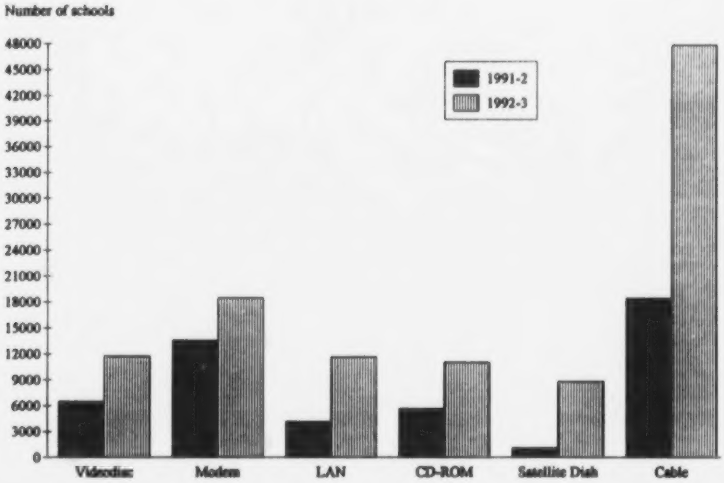
Number of Computers Per 16 Students in U.S. K-12 Public Schools, 1983-93



SOURCE: Office of Technology Assessment, based on data from Quality Education Data, Inc., "Technology in Public Schools 1992-93," 12th Annual Installed Base Report on Technology in U.S. Schools and Districts, 1993.

Figure 2

Schools with New Information Technologies, 1991-2 and 1992-3



NOTE: Total number of public elementary and secondary schools is approximately 83,000.

SOURCE: Office of Technology Assessment, based on data from Quality Education Data, Inc., "Technology in Public Schools 1992-93," 12th Annual Installed Base Report on Technology in U.S. Schools and Districts, 1993.

Figure 3

Distance Learning in Today's Classrooms

WHAT IS BEING DELIVERED?

Whole courses--especially foreign languages, mathematics, science, and Advanced Placement

Enrichment activities

Current events programs

Training and staff development

WHO ARE THE PROVIDERS?

Local school districts

Regional education service agencies

State education agencies

Colleges, universities, and community colleges

Public television stations

Museums and science centers

Federal agencies

Private sector

Consortia

WHO IS BEING SERVED?

In high schools:
- gifted and talented students needing advanced classes
- underserved students needing an expanded array of courses

In elementary and middle schools:
- students receiving enrichment materials

Teachers and staff

HOW IS DISTANCE EDUCATION DELIVERED?

Video (one-way or two-way)

Audioconferencing

Computer conferencing

Audiographics

Combinations of the above

WHAT TECHNOLOGIES ARE USED?

Transmission technologies:
- broadcast television and radio
- cable television
- fiber optic cable
- ITFS (Instructional Television Fixed Service)
- Microwave
- Public telephone network
- Satellite

Classroom technologies:
- computers with modems
- keypad response systems
- telephones
- videocassette recorders

SOURCE: U.S. Congress, Office of Technology Assessment, Linking for Learning: A New Course for Education (Washington, DC: November 1989), report brief.

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Table 1

Transmission Technologies for Learning at a Distance

Technology[a]	Configuration	Advantages	Disadvantages	Trends
Terrestrial broadcast	One-way broadcast of audio, video, and possibly data; possible audio return	No special receiving equipment or converters; reaches most schools and homes	Limited channels and air time; reception limited by geography; high transmission equipment and production costs	Increased use of data/text transmission
Fiber optic	Two-way audio, data, and video	High capacity/speed; channel capacity easily expandable; high-quality signal	High installation cost; rights-of-way may be required to lay new cable	Costs are declining rapidly; fiber deployment is expanding rapidly
Microwave	Two-way point-to-point audio, data, and video	Low-cost transmission time; no rights-of-way needed	Must be FCC-licensed; tower space or location may be difficult to get; difficult and costly to expand channels; crowded frequencies; line of sight required	Use of higher frequencies is expanding
Instructional Television Fixed Service (ITFS)	One-way broadcast or point-to-point audio, data, and video; possibility of audio return	Low cost delivery of video	Crowded frequencies, especially in cities; FCC licensing required; limited transmission range; line of sight required	Digitalization may triple channel capacity; wider coverage areas using repeaters; rebroadcast of satellite-delivered programming
Public Switched Telephone Network (PSTN)	Two-way voice, limited data and video	Wide coverage; low initial cost; high quality and capacity of fiber optic links; others handle repair and upgrades	Quality is spotty, limited transmission of data and video; cost is distance sensitive	Expanding fiber installation; digitization of network increasing; increasing intelligence in the network
Satellite	One-way broadcast of voice, data, and video; possibility of audio and data return	Wide coverage transmission cost is distance insensitive	Expensive uplinks; high transmission costs; FCC licensing of uplinks; receive site microwave interference (C-band) or rain fade (Ku-band)	More use of Ku-band; possible transponder shortage; increased use of data; increased interactive capabilities
Audiographics	Two-way computer conferencing with audio interaction	Low cost; easy exchange of graphics; uses PSTN	Visual interaction limited to graphics/still video	More powerful computers; better software and peripherals increase capabilities
Cable television systems	One-way broadcast or two-way point-to-point audio, data, and video	Wide availability; low delivery costs	Limited capacity; can be difficult to interconnect; not usually designed for interactivity	Capacity increases using fiber; more addressability and two way capability

[a] Technology systems do not have to operate independently, they are often combined in "hybrid" systems

SOURCE: U.S. Congress, Office of Technology Assessment, Linking for Learning: A New Course for Education, OTA-SET-430 (Washington, DC: U.S. Government Printing Office, November 1989), tb. 3-1, p. 61.

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LINDA G. ROBERTS

Bio Sketch

Linda Roberts is a Senior Associate in the Science, Education and Transportation Program at the Office of Technology Assessment. As the director of three OTA studies, *Power On! New Tools for Teaching and Learning* (1988), *Linking for Learning: A New Course for Education* (1989), and *Adult Literacy and New Technologies: Tools for a Lifetime* (in press) Dr. Roberts is widely recognized by the professional community as a leading expert in the application of technology to support and upgrade education. She serves as an adviser in both formal and informal capacities to citizen groups, corporations, foundations, and state and local policymakers. She speaks extensively on new technologies and education in the United States and abroad. Roberts received Electronic Learning Magazine's "Educator of the Decade" award, one of ten who made a difference in educational technology 1981-1991. Most recently Roberts chaired the panel of experts for the Educational Telecommunications Task Force of the Federal Coordinating Committee on Science, Education and Technology (FCCSET).

Her work for OTA builds on broad experience in the field as a teacher, reading specialist, researcher, university professor, and Academic Dean. Dr. Roberts received her Ed.D. from the University of Tennessee, her masters degree from the Harvard Graduate School of Education, and her bachelors degree from Cornell University.

Chairman Kildee: Thank you very much.

Let's see, we're going down the line. I guess, Dr. Zucker, you're next.

Mr. Zucker. Thank you, Mr. Chairman. I'm here to summarize some of the findings in SRI's two-year study of the Eisenhower Program, that was conducted under contract to the U.S. Department of Education.

We collected most of our data in 1988–1989. At that time, the Eisenhower Program was still known as Title II—Title II of the Education for Economic Security Act. In its reauthorization in 1988, the name was changed to Eisenhower, but the program has essentially been one and the same since it was created in 1984.

The study findings are several years old now, and there undoubtedly have been some changes in the operation of the program since the data were collected, but it is my impression that the program is largely operating now as it was when we studied it a couple of years ago. Consequently, I believe and I hope that these reports will be useful to you as you consider reauthorizing the program.

When we began our study, we thought of the Eisenhower Program as something of an experiment in its approach to professional development. Notably, the Eisenhower Program has a three-component strategy for improving math and science education that is unique.

Funds are provided, first, for State leadership projects; second, for school district activities; and, third, for grants to higher education institutions. In a sense, our charge was to consider the question, "How is this experiment working out?" A brief answer to the question and the primary conclusion of our two-year study was that the program provides a critical enabling resource that supports efforts to reform mathematics and science teaching.

We have not gone back specifically to look at the Eisenhower Program since the study was published in February 1991, but we have done many other studies, and we constantly bump up against the Eisenhower Program for one reason or another.

I don't believe that any of us who were involved in the study of the Eisenhower Program would modify this basic conclusion about the place of the program. The Eisenhower Program is providing essential fuel to power the reform movement, and without those funds reform in mathematics and science education could well run out of gas.

We had three major conclusions besides the one that I've stated, in terms of our recommendations, and I would like to just summarize those.

The first recommendation that we made was that the three-component strategy of the program should be maintained; that is, State leadership activities, funds to districts, and funds to higher education projects. By and large, these components are funding complementary types of activities that reinforce one another in very constructive ways and energize different sectors of the education establishment.

At the same time, we did document some aspects of the program that we thought could be strengthened through changes in either legislation or leadership. For one thing, we thought the program's funds could be allocated differently among the three components and be somewhat more fruitful.

On the whole, the higher education grant projects and the State leadership activities supported by Eisenhower appear more consistently well designed than the activities in the school districts, and, therefore, we recommended that a larger percentage of funds be devoted to those two components and less to the school districts. The percentages are established in law, as you know, and have been changed once and could be changed again.

In terms of leadership, we felt that a variety of leadership activities at the Federal, State, and local levels would strengthen the program. For example, it is perfectly legal for the States to take the Federal funds and set priorities on top of the ones that have already been established, such as that funds must be used for mathematics and science, education, and largely for professional development.

A State could decide, for example, to target the middle school grades in a particular year, or even for several years. Some States have done that consistently, and we find that that is a helpful strategy, to focus the use of the funds.

We encourage more States and districts to do that kind of targeting and be strategic in their use of funds, rather than do what is politically the easy thing and give a little bit of money to everybody, which may dilute the impact of the activities.

Those are the main conclusions and recommendations that we presented in our report, and we have no reason to change them now. I think that the Congress would help the reform efforts to move along in science and mathematics education if it were to reauthorize the Eisenhower Program in a form that is largely similar to the one it has had in recent years.

Thank you.

[The prepared statement of Andrew Zucker follows:]

THE EISENHOWER MATHEMATICS AND SCIENCE EDUCATION PROGRAM: FINDINGS FROM THE NATIONAL STUDY

Statement Before the
Subcommittee on Elementary, Secondary and Vocational Education
of the
House Committee on Education and Labor

by

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March 23, 1993

Introduction

I am pleased to be here today to summarize major findings of SRI's two-year study of the Eisenhower Program[*]. Most of the study's data was collected during 1988-89, when the program was known as the Title II Program (Title II of the Education for Economic Security Act) -- but in terms of the great majority of activities which are supported, the Title II and Eisenhower programs have been essentially one and the same.

The findings and conclusions of our study were published in February 1991, and the data are now a few years old. While there may have been some changes in the program's operation since the data were collected, it is my impression that the program is largely operating the same way now as it was then. Consequently, I believe that the 1991 reports will be of use to you as Congress considers reauthorizing the program.

Overall Conclusions of the Study

As we began our study, we considered the Title II/Eisenhower program, created in 1984, to be something of an experiment in its approach to professional development. For example, **the program uses a three-part strategy for improving science and mathematics education that is unique among federal education programs. Funds are provided (1) for state leadership projects, (2) for school district activities, and (3) for grants to higher education institutions.** In a sense, then, our charge was to explore the question, "How well is this experiment working out?" A brief answer to the question, and the primary conclusion of the study, is this: **the program provides a critical enabling resource that supports efforts to reform mathematics and science teaching.**

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[*] Knapp, M.S., Zucker, A.A., Adelman, N.A., and St. John, M. (1991). *The Eisenhower Mathematics and Science Education Program: An Enabling Resource for Reform*. Washington, DC: U.S. Department of Education.

In light of more recent experiences we have had in other studies conducted since the report was published two years ago, I don't believe any of us involved in the Eisenhower study would modify this fundamental conclusion. The Eisenhower program remains one of the principal foundations upon which reform in mathematics and science education is being built. Or, to use a different metaphor, the Eisenhower program is essential "fuel" that powers the reform movement. Without these funds, reform in mathematics and science education could well "run out of gas."

The primary conclusion of the study (stated above) led us to the first of three major recommendations, namely that **the three-component strategy of the program should be maintained.** The state leadership funds, the higher education projects, and the district-supported activities in general play a complementary role. The involvement of these three sectors of education has energized a large number of people to help reform mathematics and science education in the schools.

At the same time, the national study documented some aspects of the program that we thought could be strengthened through changes in both legislation and leadership. Our recommendations for change can be summarized as follows:

- The program's funds should be allocated differently among the three components. On the whole, higher education grant projects and state leadership activities appear more consistently well designed than activities in school districts; therefore, we recommended that a larger percentage of the funds be devoted to those two components of the Eisenhower program, and less to school districts.
- A variety of additional leadership activities at the federal, state, and local levels would strengthen the program. For example, more states should take steps to set their own carefully conceived priorities for the use of Eisenhower funds within the state (as some states do already).

These recommendations are discussed on pages 35 - 40 of the Summary Report and in chapter XII of the Technical Report. Rather than discuss the recommendations here in greater detail, I would like to step back from the program a bit and recall why it was created in the first place.

The Need for Professional Development

In 1984 Congress found that there was a need for greatly expanded professional development activities for teachers, especially teachers of science and mathematics. By professional development I mean not only inservice training, but also such other activities for teachers as attendance at professional conferences, and efforts to build professional teams, for example by having teachers work together to develop schoolwide plans or district curricula.

Much has changed in education since 1984, but professional development for teachers continues to be of great importance because of the rapid changes taking place in science and mathematics education. To begin with, the content of the mathematics and science taught in schools is changing

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rapidly -- that includes everything from teaching about fractals in mathematics classes to teaching about genetic screening in biology.

Beyond new content, teachers of science and mathematics are also being asked to integrate **new approaches to teaching these subjects**, such as using computers or video in the science or mathematics classroom, or conducting high school lab activities that integrate simple biotechnology techniques, or making greater use of collaborative work in classrooms (rather than having all students work alone). Mastering new approaches like these places added demands on the classroom teacher, beyond learning new content.

On top of that, teachers are being asked to change the very **goals of mathematics and science instruction.** For example, there are widespread calls to focus much more on "higher order thinking" and less on memorizing scientific facts or mastering simple arithmetic computation. For substantial numbers of teachers, this means rethinking both curriculum and instruction.

Whether we like it or not, changing the goals, the content, and the approach to instruction taken by about 1.4 million practicing science and mathematics teachers in this nation is going to be a mammoth job! (This figure includes more than a million elementary teachers of mathematics and science.) It is this great need that led to creation of the Eisenhower program, and the need will not quickly be met.

Let me remind you of just one interesting finding from the 1985-86 National Survey of Science and Mathematics Education, conducted by Iris Weiss, then of Research Triangle Institute. Eighty-two percent of elementary teachers in the U.S. indicated they were "very well qualified" to teach reading. Of those same teachers, only 67 percent felt "very well qualified" to teach mathematics, and fewer than one-third could say the same about any one of the sciences.

Large numbers of teachers do need help (at all levels, by the way, not just elementary teachers). What kinds of help do they need? Let me suggest a simple, general principle that we found useful in considering the Eisenhower program. The principle is that, throughout their careers, **most teachers need a mixture of short-, medium-, and long-term professional development activities ranging from an afternoon to many months or more.** By and large the study data show that the Eisenhower program provides the short-term experiences more than the medium- or the long-term experiences. However, the Eisenhower higher education projects, in particular, do provide long-term experiences, and that is one reason we recommended increasing the proportion of funds devoted to that component of the program.

One of the temptations that we faced as we analyzed our data was to suggest that short-term professional development activities are always less worthwhile than long-term activities. We resisted this temptation because we didn't believe that was true. Teachers benefit from going to professional conferences, for example, and this is one major example of a short-term activity supported by Eisenhower funds.

When Congress created the Title II/Eisenhower program, the need for inservice training and other kinds of professional development for science and mathematics teachers was considered great, both because American performance in these subjects was poor, and because calls for reform of science and mathematics education were growing. These conditions are probably changing for the better. For example, as a nation we have in recent years developed a new consensus around national standards for mathematics curriculum and instruction, and we have embarked on a venture to do the same for science education. These are important signs of progress. However, the need for professional development still appears to me to be as great now as it was in 1984.

Unless you believe that 1.4 million teachers of mathematics and science in elementary and secondary schools can change their goals, the content of their instruction, and their pedagogical practices in these subjects without support and assistance, you must conclude that the Eisenhower program, or something like it, serves a very important role. Examples of what the program means to teachers may help illustrate this point.

What the Program Means to Teachers

From the outset of our study we knew that the ultimate purpose of the Eisenhower program is to increase student achievement. However, it is extraordinariliy difficult to document student achievement "gains" based on relatively short, very diverse professional development experiences of only some teachers in any district (and those few may be at many grade levels and in various subjects). Furthermore, the measurement problems are greatly confounded if we are changing the goals of instruction without, oftentimes, changing the tests.

Therefore, the study primarily focused on documenting the impacts of the program for teachers. This is the area in which we expended the greatest effort, conducting over 150 interviews with participating teachers in seven states.

There is no doubt that the Eisenhower program significantly expanded the volume of professional development activities available to teachers. This was documented in interviews with teachers, supervisors, state agency staff, and others. Teachers are involved in a larger number of professional development activities in mathematics and science than before the program began.

Also, there is little doubt that a wide variety of teachers take advantage of these opportunities. There are many examples of "typical" or "average" teachers benefiting from the program. At the same time, some projects have focused on "lead" teachers (or, lead teachers in the making), while a few have focused especially on underprepared teachers.

As an illustration of how teachers' involvement in professional development is increasing, we noted that there was a dramatic increase in individual memberships in both the National Science Teachers Association (NSTA) and the National Council of Teachers of Mathematics (NCTM). The percentage increases from 1984 to 1989 were 45 percent and 52 percent, respectively. This is one illustration that many more teachers are involved in national, and state, professional associations than before the Eisenhower program was created, which is a very encouraging sign if we want science and mathematics teachers to become more professionalized, and teaching to improve.

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So participation has certainly increased -- not just for NSTA and NCTM, but for professional development generally. It is more difficult to generalize about the nature of the impacts on the nation's teachers.

The most common type of impact relates to increased awareness -- for example, elementary teachers who are exposed for the first time to the NCTM Curriculum and Evaluation Standards for School Mathematics, who participate in a "make-it/take-it" workshop on elementary science, or who learn about a new state law on science and mathematics testing and assessment (and what it means for curriculum and instruction). **Awareness is a necessary first step before people can change, and its importance should not be minimized.**

Another type of impact is the sense of excitement or renewal that is generated when teachers have a chance to meet with and learn from their peers. We found many cases in which teachers said that making professional connections (at a state or district conference, or at a summer institute), or working in teams in a project, was one of the most significant outcomes of participation in an activity supported by Eisenhower funds.

Neither renewal, nor professional connections, nor awareness by themselves are sufficient to reform mathematics and science teaching -- but they are necessary first steps for many teachers. Additionally, there are many cases in our data of teachers who have, indeed, clearly changed their approach to teaching based on experiences supported by the program, and these are the clearest "success" stories.

Most often, these changes are associated with longer, more intensive experiences for professional development. The higher education projects -- which served about 60,000 teachers in 1988-89, at an average of 60 contact-hours per teacher -- provide the great majority of the more intensive activities supported under the Eisenhower program. But the study's data show that shorter experiences can, less often perhaps, have an equally profound impact on teachers and teaching. Two examples will help illustrate this:

- A one-day experience: In a rural area of the midwest we visited, mathematics in grades 5-8 is departmentalized. We spoke with a woman who is the only math teacher in her school, with a total math budget of $50 per year. She attended a regional conference of the NCTM affiliate, supported by Title II, which also paid for a substitute while she was away. For her, the most significant professional event at the conference was that she learned for the first time about the NCTM Standards. Proposals to move algebra to junior high school were eye-opening to her, but she said the entire set of Standards was interesting and she "wished there had been more" about them at the meeting. She also described the uses she had made in her school of every one of three other workshops she had attended at the conference.

- A sixteen-hour experience: A fourth grade teacher participated in a science inservice conducted by the district's science supervisor. The goal was to enable teachers to handle the new state-mandated elementary science test, which assumes that teachers have taught students to do a lot of hands-on work with science equipment. The teacher said, "science is the subject people seem to be afraid of. The concepts and vocabulary are intimidating. The workshop made a great impact. A lot of us gained confidence and we were able to support each other. I came away with a whole boxload of materials as well as a great deal of experience." This particular workshop consisted of eight two-hour sessions over a year.

These examples illustrate the kinds of impacts that even short professional development experiences can have. These are illustrative of the kinds of changes that are needed on a broad scale in order to reform mathematics and science education. As noted earlier, the longer, more-intensive professional development activities stand an even greater chance of having significant impacts in the classroom than short ones, but the shorter ones are certainly more common (as one might expect).

The Eisenhower program is supporting hundreds of thousands of teachers to engage in experiences like those described above. However, one of the most difficult things about giving a thumbnail sketch of the program is trying to give a sense of just how varied the types of experiences are that different teachers have. Some teachers take graduate-level courses at a local university. Some teachers are paid to help design the professional development activities for their colleagues in a school or district. Some teachers spend four weeks at special summer institutes at an institution of higher education in the state. Some teachers are required to focus on topics tailored especially to their situation (like one district that trained all upper elementary teachers to implement a new science curriculum); others, like those who attend professional conferences, have a lot more choice about what they focus on how they apply it in the classroom. Congress intended for the program to be highly flexible, and it is!

The examples cited above were examples of good professional development, if by that we mean professional experiences that have a significant impact. We found that there is a widespread awareness of many principles for providing effective professional development (although, of course not every district or college applies them equally well). Besides the need for balancing long-term and short-term activities wisely, there are many other principles of providing good professional development that are well known, and that are identified in our report. For example, teams of teachers from the same school who are trained together are more likely than individuals to make schoolwide changes; follow-up support should be offered to teachers after training; curricula that are being introduced should already have been proven effective, and should be appropriate to the grade level; schools should view staff development as part of an overall strategy for change; and so forth. The absence of any of these conditions does not mean the activity will fail, but it probably means the odds of success are lower. By and large, more of the Eisenhower higher education and state leadership projects follow these principles than the district-supported activities.

Conclusion

Rather than try to discuss many other findings and recommendations of the study, I think it is best simply to refer to the brief "highlights" section of the Summary Report that is appended to this statement, and indicate how to obtain copies of the full report.

The national study was sponsored by the Planning and Evaluation Service of the U.S. Department of Education (now called the Office of Policy and

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Planning), whose support my colleagues and I gratefully acknowledge. The full report is available in two volumes from the Office of Policy and Planning. There is a short Summary Report (41 pages) and a longer Technical Report (more than 400 pages). Both carry the title, The Eisenhower Mathematics and Science Education Program: An Enabling Resource for Reform.

The comprehensive nature of the study, which involved five national mail surveys, and nearly 50 site visits in seven carefully selected states (Arkansas, California, Iowa, New York, North Carolina, Vermont, and Wyoming), was promoted and encouraged by the Department. We have confidence in the findings because the body of evidence we gathered is large and comes from diverse sources. Also, the response rate exceeded 80 percent for each of mail surveys (state agencies for elementary/secondary education; state agencies for higher education; school districts; intermediate units, such as Education Service Centers; and institutions of higher education). These high response rates demonstrate that we received excellent cooperation from state and local educators (and the same was true in the dozens of site visits we conducted).

The cooperation of colleagues at other firms who worked with us on the Eisenhower study was also invaluable, particularly Nancy Adelman, from Policy Studies Associates and Mark St. John, from Inverness Research Associates. Dr. St. John worked with SRI earlier on a two-year study of the science education activities of the National Science Foundation. Dr. Adelman is currently working with SRI on a study of NSF's Statewide Systemic Initiatives (SSI) program. Dr. Michael Knapp, who directed the Eisenhower study, is now an associate professor at the University of Washington.

I would like to conclude this statement about where I began, by repeating our major finding. The major conclusion is that **the program provides a critical enabling resource that supports efforts to reform mathematics and science teaching.** The program has unleashed a lot of energy at the state and local levels aimed at reform of mathematics and science education. I believe the Congress will be helping the reform efforts substantially if it reauthorizes the Eisenhower program in a form similar to the one it has had in recent years.

THE EISENHOWER MATHEMATICS AND SCIENCE EDUCATION PROGRAM: AN ENABLING RESOURCE FOR REFORM

HIGHLIGHTS OF THE REPORT

The National Study of the Title II/Eisenhower Program

This report summarizes the findings and conclusions of the National Study of the Title II/ Eisenhower Mathematics and Science Education Program (State and Local Grants), a federal initiative supporting professional development of the nation's mathematics and science teachers.*

The overall conclusion of the study is this: The program provides a critical enabling resource that supports current efforts to reform mathematics and science teaching.

Size and Scope of the Program

- *Program size.* Relative to other federal education initiatives, the program is modest in size: approximately $100 million was available for state and local grants in the fourth year of the program (1988-89 school year), the time period to which most of the National Study data apply; for the 1991-92 school year, approximately double that amount has been appropriated to the program.
- *What the funds pay for.* The money pays for various costs associated with professional development activities—participant stipends, travel costs, consultant fees, training staff salaries, materials used in training, and so forth.
- *Who participates in the program.* Virtually all school districts in the nation (93% in 1988-89) receive program funds either directly or through an intermediate unit or consortial arrangement. In addition, across the first four years of the project, approximately 20% of all degree-granting institutions of higher education received one or more Title II grants. The number of teachers who participate in program-sponsored activities is large: an estimated one-third of all mathematics and science teachers in the nation (including elementary-level teachers) took part in some kind of Title II-supported activity in 1988-89.

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* The study was conducted by SRI International in collaboration with Policy Studies Associates and Inverness Research Associates, under contract to the Office of Planning, Budget and Evaluation of the U.S. Department of Education (Contract Number LC88029001). The views expressed in this report are the authors' own and do not necessarily reflect the views of the U.S. Department of Education. For further detail and technical information related to findings summarized here, the reader is referred to the full Technical Report (with the same overall title).

Program Components and Their Operation

There are three components to the program: state leadership activities, "flow-through" funding to school districts, and grants to institutions of higher education.

State leadership activities. State set-aside funds represent a small percentage (currently 4%) of program funds for states and districts under the program.

- These funds enable state agencies for elementary and secondary education (SEAs) and higher education (SAHEs) to exercise leadership by (1) assessing and setting priorities for the improvement of mathematics and science education, (2) offering technical assistance to school districts and others engaged in reform activities, and (3) supporting various "Demonstration and Exemplary" projects.
- State agencies are funding various activities, including conferences, teacher support networks, revision and dissemination of state mathematics and science frameworks, and the promotion of national reform agendas (e.g., as represented by the *Curriculum and Evaluation Standards for School Mathematics* of the National Council of Teachers of Mathematics).
- Program funds represent a large percentage—half or more, on average, in 1988-89—of all discretionary funds available to state agencies for mathematics and science improvement.

Flow-through funding to school districts. Currently, two-thirds of the program's state and local grant funding is allocated through SEAs by formula to school districts, to support professional development activities determined at the local level.

- The majority of these funds pay for low-intensity inservice training, averaging six hours of training per participant per year (in 1988-89).
- A substantial fraction of the flow-through funds also supports out-of-district professional development, including widespread participation in professional associations.
- LEA-sponsored training under the program is highly varied: at one end of the spectrum are focused, well-designed staff development events that have clear impact on teachers' thinking and classroom practice, while at the other are *ad hoc* training experiences that appear to contribute little to improved practice.

Grants to institutions of higher education (IHEs). The remainder of the funds (24% under the current formula) are awarded competitively by SAHEs to institutions of higher education, to support professional development projects of several kinds.

- The great majority of projects provide inservice teacher education, while a small percentage (12%) concentrate on, or include, preservice preparation of teachers (a few projects are concerned primarily with curriculum development or direct services to students).

- By comparison with district-sponsored activities, these projects are typically more intensive, averaging 60 hours per participating teacher, pay more attention to content in addition to pedagogy, and are more frequently focused on the needs of underrepresented groups (women and minorities).
- On the whole, higher education grant projects appear more consistently well designed than the activities in school districts and on average are more likely to have impact on classroom practice.

Major Themes in the Study Findings

Four themes summarize what the National Study learned about the program and its place among current initiatives aimed at the reform of mathematics and science education:

The program occupies an otherwise unfilled niche among reform initiatives. The design of the program and the way it has been implemented give it a unique function among current federal, state, and local reform initiatives. In particular, the program has especially wide reach, enabling it to serve all states and school districts in the nation, in addition to involving a substantial fraction of the nation's higher education institutions; the funding is flexible and easy to obtain; and the program targets the K-12 and higher education systems simultaneously and encourages their collaboration in efforts to improve mathematics and science education. No other reform initiatives have these attributes. Those that come closest (e.g., the teacher preparation and enhancement grant programs of the National Science Foundation) emphasize the development of national models through relatively large grants to a smaller number of grantees. The Title II/ Eisenhower program, by contrast, emphasizes small grants to state, regional, and local institutions to support the implementation of reform ideas developed by other means.

The program expands the array of professional development opportunities. Title II/ Eisenhower grants to school districts and institutions of higher education have substantially increased the array of professional development opportunities available to mathematics and science teachers. These opportunities are of mixed quality, but at a minimum they offer large numbers of teachers the chance to become aware of reform ideas, make connections with colleagues, and revive or expand their interest in mathematics and science teaching. Although there is no easy way to estimate incidence, a great number of these opportunities—perhaps the majority of higher education grant projects, but less than half of all school-district-sponsored activities—offer much more than this to teachers and are designed in ways that promise to have some lasting impact on teachers' thinking and classroom practice.

The program supports leadership but does not create it. Although it has mechanisms that encourage the focusing of funds on high-priority needs, the program does not chart the course for efforts to reform mathematics and science education. Rather, it offers a key resource to state, regional, and local leaders to implement reform ideas on a wide scale. In this way, the program depends on the environment of reform activity that surrounds it. Thus, in school districts with well-focused agendas for improving mathematics and science education, the funds are likely to be spent well, while in other districts, the funds are less effectively used. At all levels, the program and the resources it offers appear to have empowered subject-area leadership.

The program provides a necessary but not sufficient resource for promoting sustained change in teaching practice. What the program offers is necessary to the success of reform efforts in several ways: it addresses a function (professional development in mathematics and science) that must compete for scarce local staff development dollars with other subject areas and with generic inservice, yet is key to the widespread adoption of new approaches to teaching. Among large numbers of teachers at all levels of K-12 schooling, the program builds awareness and a sense of rejuvenation—an essential first step in the reform process. For a smaller but substantial number of teachers, the program takes them farther along the road to reform.

But the program cannot revolutionize teaching practice on its own. Title II/ Eisenhower funds are not great enough to support professional development of sufficient intensity and for large enough numbers of the nation's teachers to make the deep and lasting changes in teaching practice that are currently called for. Furthermore, and perhaps more important, the program is not designed to address the elements besides professional development that must also be improved for lasting changes to occur—among them, facilities, teacher salaries, curriculum, assessment procedures, and the overall organization of school programs.

Implications for the Program and Its Future

The findings of the National Study have implications for changing and improving the program, for example, when the program is next reauthorized at the federal level. Three broad implications are as follows:

(1) *The three-component strategy of the program should be maintained.* The components serve different but complementary functions that are each essential to the overall success of the program as a professional development strategy. The generally low-intensity and short-term training offered by school districts is an effective means for building widespread awareness and rejuvenating large numbers of teachers; it also allows districts with well-developed improvement agendas to do more for their teachers. The higher education grant component offers a richer set of training experiences to teachers than what is available through most district-sponsored activities. The state leadership activities give direction to both of the other components and build an additional layer of support in terms of teacher networks, topical conferences, and other forms of information dissemination.

(2) *The program's funds should be allocated differently among the three components.* Study findings suggest that there is an imbalance in the current allocation formula, which was in fact exacerbated by the recent

reauthorization of the program: the component (flow-through funding to districts) offering the lowest intensity and widest variety in quality of training receives the lion's share of the resources, whereas the state leadership component, which is providing direction and support to large numbers of districts, operates with an extremely small share of the resources. A better balance can be struck by proportionately increasing the share allocated to state leadership activities and grants to institutions of higher education.

(3) *A variety of additional leadership activities at the federal, state, and local levels would strengthen the program.* Because the program depends on the vision or sense of direction of those who receive the funds, further steps should be taken to strengthen leadership at all levels of the program. Additional leadership and direction need not involve extensive regulation and can be accomplished without reducing the program's flexibility and administrative simplicity—for example, by exhortation, dissemination of information, and similar means.

Mr. **Roemer**. [presiding] Thank you.

Ms. Stanchina.

Ms. **Stanchina**. Thank you for the opportunity to provide some information about the uses of Federal funds at the local level. And so what I would like to share with you and the committee reflects how school districts which are members of an educational cooperative have selected to use those school districts.

And, in contrast to what Dr. Zucker said about perhaps some additional dollars going to higher education, I would like to suggest that we leave it as it is and maintain the significant amount of moneys going to the local districts.

I hope that by the time I'm through with a few of my comments and what we've prepared for the written testimony, you will understand clearly that we have had significant influence on the teachers in mathematics and science and their delivery of that instruction.

As I said earlier, I work in an educational compact of six school districts in northeastern Ohio. That organization has been in existence for 23 years. It was originally designed for the delivery of vocational and special education services, and, throughout the 23 years of its existence, the school board members and the superintendents have decided that cooperative arrangements for education and the pooling of moneys is a cost-effective and a very efficient way to deliver education services.

When the Eisenhower Act dollars became available in 1985, our districts decided to pool those dollars. We have a student population base of approximately 25,000 students, and, so, some of our districts were receiving small amounts of money. And yes, quite frankly, there's not a lot you can do with $972. But in the impact of pooling dollars, we were able to then design some educational programming that was significant.

Once those dollars became available and the commitment was made to join efforts for financial purposes, a needs assessment was completed, and, at the same time, a group of mathematics teacher leaders was created. Those two things went together simultaneously.

That group of teachers is still in existence. We have had very little turnover. And so now, we have somewhere between 25 and 30 teachers and an administrator from each school district who operate in a collegial way to design programming for math and science inservice.

The activities that that group does is based upon the results of two different needs assessments. All programming is, as I said, designed around what we found teachers and administrators were saying, from those six school districts plus one private affiliate, were needs that they had.

Now, to be very blunt about it, if Eisenhower Act moneys were not available since 1985 in our six school districts and that one affiliate, we would not have the opportunity to deliver the types of programs and services that we have.

And I can also speak for the State of Ohio, because I talked with the official Eisenhower Act director before I came yesterday, and he assured me that in 90 percent of the districts in the State of Ohio, those Eisenhower Act dollars represent the only means of staff development that's available for teachers of math and science. So, we certainly are hopeful that the reauthorization continues so that we can enable our teachers to be more proficient in teaching of math and science.

Now, what I would like to do is to share with you some of the things that we have done since 1985 in terms of the use of those dollars. Again, I would like to emphasize that we have a leadership team of math and science teachers who design these programs. These programs are not designed from the top down.

In other words, there's no superintendent, or I do not say, "This is what you need." They are the ones who are telling us what they need. And certainly everything that has been offered to you in testimony prior to me speaking is true for us.

We have a significant need for technology in our classrooms. But more significantly we also need to have opportunities to be able to train those teachers to use that technology intelligently and so that it does become a tool for instruction and not just one more computer that sits in a classroom and that the teacher does not inherently understand how to use that in all forms of classroom instruction.

We have designed activities, everything from a newsletter that goes to thousands of teachers, to focusing on mathematics and science activities, to workshops and seminars that focus on concepts and the teaching and instructional delivery that teachers often need to have, to conferences that teachers have sponsored dealing with integration of mathematics and science.

We also have spent a good bit of time working with the business and industrial world, in terms of helping teachers understand, through visitations to business and industry sites, the applicability of math and science in what I call the real world.

We have many teachers who have never had any other type of work experience other than being a teacher, and, consequently, their background in any other type of work experience is very limited. And so in the written testimony I have provided for you a listing of the places to which we have taken teachers.

Now, you might ask, well, how significant is that? What impact does that make? We have found it to be extremely significant in that we have seen demonstrated change in teacher instructional style and content, because one of the purposes is that, once those teachers return to the classroom, we follow up to see if they are, indeed, changing their content, teaching styles, et cetera. And we have found that to be in the affirmative.

It has also allowed for linkages to develop between classroom teachers and people from business and industry on a one-to-one basis, rather than going through unnecessary layers of personnel within districts to reach those individuals.

Ohio has proficiency testing now, and we also have our own model of mathematics instruction, based on the NCTM standards, and a sizable part of our time with these dollars has been used to help teachers through that process. In our six districts, we have a very mature teaching staff, and the types of inservice and staff development that those individuals need frequently are different from the types that new teachers and teachers who have been in the classroom for perhaps 5 or 10 years might need.

We have some people who are defensive about changing teaching styles and changing classroom content and what the emphasis ought to be. And so we have levels of staff development that reach to those needs and try to address them for where those teachers might be.

Because of proficiency testing in Ohio, we do have students that are, to date, unable to pass. Mathematics is one area they're having significant difficulty with that test. And so we are spending some time looking at the delivery of intervention strategies for those students and for teachers, as well.

We also have some creative teachers who thought that there needed to be a Statewide Mathematics Day to be at least congruent with the emphasis on reading, and, so, we now have a Statewide Mathematics Day because of some legislative activity from members of this particular committee.

As a result of the teacher-collegial model of staff development and the forcing of administrators to begin to look at, how do we, indeed, deliver instruction, two of our six districts—and this is also in the testimony—decided that they would study that issue.

And so we now have what we call the Lighthouse Education Enhancement Project, which, at the elementary level, does consider the use of technology as a teaching tool and the training of instructors to use that tool. We have spent sizable dollars on the training of teachers so that they can feel more comfortable in using that technology, and we have been very successful with obtaining private grants for that.

We are now in the process of moving towards science inservice. When the Eisenhower or Title II moneys first became available, the emphasis was, we felt, on mathematics. However, we did make a commitment at that time that we would move towards science. Last year, we made that move, and we are in the process of developing the same type of delivery system for staff development with the science teachers as we did with the math teachers.

I think that—in pulling a few thoughts together here, I think that the way we have used the Eisenhower Act dollars is very illustrative of how collaboration can be successful across school districts and across grade levels. I think it also is indicative that teachers and administrators can indeed work together in a positive way if the approach is appropriate.

I think it also indicates that, when you provide teachers with an opportunity to become leaders and for them to use their skills in designing programs, that the success is much more significant than having someone from a central office staff indicate what the activities will be. I think that we have used our dollars to show that pooling of resources is a significant way in which to get "the biggest bang for the buck" in terms of limited resources.

We do work closely in Ohio, in terms of the Board of Regents, with their higher education dollars. And so I would again like to have a plea that, while we recognize that's important, I think as many dollars as we can have flow directly to the school districts, without intervening steps in order to obtain it, is advisable and sensible.

Thank you very much.

[The prepared statement of Mary Jane Stanchina follows:]

Mr. Chairman and Members of the Sub-Committee:

I am Mary Jane Stanchina, Executive Director of the Six District Educational Compact, located in Northeastern Ohio. The Compact and its member school districts are located in Congressman Sawyer's district. Thank you for the opportunity to present this testimony in support of the reauthorization of the Dwight D. Eisenhower Math and Science Act.

The teaching and administrative personnel within the Six District Educational Compact regard the Dwight D. Eisenhower Math and Science Education Act as legislation of great significance for the professional skill development of teachers and for the quality of instruction in mathematics and science within these six districts.

In order to better understand the reference to the Six District Educational Compact, allow me to provide background information.

The Compact is an educational cooperative which provides 19 services and programs to six suburban school districts north of Akron, Ohio. The Compact was founded 23 years ago to initially provide vocational and special education programs. Once the delivery system was deemed viable and successful, program expansion to meet other areas of student, staff and community needs has been swift and extensive.

Success for a venture such as this requires cooperation, commitment and communication from all entities within the schools. While the emphasis is on cooperative programming for effective and cost efficient operations, the respect for each district's autonomy is never overlooked.

Within these six school districts are 23,558 students, 1471 teachers, and 26 school buildings. Geographically, the districts are contiguous, and the high schools are within a 15 minute drive of each other.

The Compact configuration allows for the delivery of numerous professional development opportunities for educators. Thus, the Math and Science Inservice Project, funded through the Dwight D. Eisenhower Math and Science Education Act, represents an excellent example of the power of pooling and sharing limited resources for the maximum benefit of students.

INTRODUCTION AND PROJECT OVERVIEW

The Six District Educational Compact Mathematics and Science Project represents local education agencies (LEAs) in Northeastern Ohio (Cuyahoga Falls, Kent, Stow, Tallmadge, Woodridge and Hudson); and one area private school (Redeemer Lutheran School).

The purposes of the Six District Educational Compact Mathematics and Science Project are to provide general support for teachers (grades K-12) in teaching mathematics and to raise an awareness on the part of teachers of the importance of mathematics instruction for both school and living in the real world. The primary goals for this effort are to enable teachers and interested administrators to assume a leadership role in promoting mathematics instruction, to improve both the attitude and the competence of students' mathematical skills and to provide professional growth through a collegial model of staff development. Although selected teachers have remained current through course work and reading, many teachers have not had the opportunity to keep abreast of curriculum and instructional changes in their fields of mathematics and science, academic areas at the forefront of change. To assist in meeting these teacher needs, the Project is designed to encourage Compact mathematics teachers (grades K-12) to interact among themselves and interested parties in both private and public sectors. The intent of this dialogue is to heighten the awareness of the importance of mathematics and to emphasize activities that enable both teachers and students to be successful. It is essential that effort be spread over grades K-12 since so much of the mathematics instruction is dependent upon prerequisite work.

This Project was organized in 1985 when the Ohio Department of Education, under the Title II Program (Economic and Security Act) made funds available for conducting inservice education in the area of mathematics, science, and foreign language. The Compact superintendents, principals and curriculum directors recognized the power of pooling these limited resources (the amount per student in FY86 was $.39 rising to $1.29 in FY92. The funding amount for FY92 is approximately $40,000) providing for broader based and more impacting staff development. Consequently, each district agreed to contribute its Dwight D. Eisenhower Math and Science Education Act funds to one school district which acts as the fiscal agent.

The budget is established according to the following:

- The priorities of staff development as identified through the needs assessment and the Math Inservice Committee and the Administrative Steering Committee
- A "pool" of funds available to accomplish the activities as designed by the Math Inservice Committee
- If remaining funds are available, they are recalculated to each school district, for individual district use for mathematics inservice.

All financial reporting, proposal writing, resource ordering, program evaluating, etc. are coordinated by the Executive Director of the Six District Educational Compact. This configuration permits a cooperative and collaborative approach yet respects the need for individual district autonomy and specific needs.

Based upon needs assessment data collected from the schools, a decision was made to focus all staff development efforts in the area of mathematics instruction. Staff development in the area of science as a second priority was designated to be implemented once the mathematics component was well under way. (In 1991, the science staff development model was designed with implementation scheduled for the 1992-93 academic year.) A detailed mathematics education needs assessment was then conducted in February 1986 with a second needs assessment conducted in May 1990.

Mathematics Inservice Committee

To initiate and facilitate the Project, a resource team, called the Mathematics Inservice Committee, was organized. This committee consists of an elementary teacher, a middle school mathematics teacher, a high school mathematics teacher, and one principal from each of the participating districts. In addition, the affiliated private school provides a representative. Their responsibilities include:

- Conducting the general planning of the project and related programs
- Participating in leadership preparation activities
- Participating in visitations to area industries, businesses, and higher education institutions
- Assisting in the delivery and evaluation of the inservice activities

Administrative Steering Committee

An Administrative Steering Committee consisting of an administrative representative (someone in a decision-making capacity) from each district meets three times yearly to review the goals and plans of the Math Inservice Committee and to determine the financial and programmatic implications. Through these efforts, extensive staff development activities have been initiated. To highlight a few, please note that:

- Two comprehensive needs assessments were conducted by the Math Inservice Committee.
- Across-district mathematic leadership planning committees were organized.
- Leadership activities for the planning committees were designed.
- Five all-day mathematics conferences were held. Approximately 785 participants attended.
- A teacher newsletter was developed -- "Summing It Up."
- "After School Specials", dialogue sessions for teachers of mathematics, occurred.
- Visitations to area businesses, industries, and higher education institutions were planned and conducted.
- Plans for classroom visitation programs across districts were initiated.
- "Mathematics Day and Week" activities were sponsored by the districts to emphasize the importance of mathematics in all areas of the academic curriculum. Subsequently, the Math Inservice Committee created a statewide and legislatively enacted "Math Day".

All aspects of the Project have been evaluated using both qualitative and quantitative measures. These evaluation data have been used in planning and strengthening the Project. Overall, this mathematics staff development initiative has been deemed very successful, with teachers and administrators assuming a major leadership role in the planning, implementing, conducting, and evaluating of the activities.

MATHEMATICS NEEDS ASSESSMENT

Compact administrators identified mathematics as the priority area for inservice. A needs assessment generated an information base across the member districts that facilitated establishing inservice priorities.

A preliminary meeting was held in December 1985 to discuss the feasibility of conducting a needs assessment. A draft instrument was developed with four target areas: 1) teaching methods, 2)problem solving, 3) technology and mathematics, and 4) evaluation procedures. Following revisions, the needs assessment survey was distributed to all teachers (grades K-12) involved in the teaching and supervision of math in the participating Compact districts. All returned surveys were collected by February, 1986 for analysis by the Graduate Research Center at Kent State University.

The Math Inservice Committee had three responsibilities in dealing with the needs assessment. Its members first learned to analyze and interpret hypothetical needs assessment information. They then applied these skills to the actual needs assessment results for the Compact. Finally, they established Compact-wide, grades K-12, inservice priorities based on their analysis and interpretation. These results were then presented in a report to the Administrative Steering Comittee and Superintendents.

More specifically, the needs assessment results indicated the following priorities for the Mathematics Inservice Project:

Teaching Methods

- Demonstrate the use of manipulatives for teachers and administrators across all grade levels
- Provide building administrators inservice on assessing teachers' and students' learning modalities

Problem Solving

- Bring people from the "real world" into contact with teachers for real world applications of math in business, industry, higher education, etc.
- Clarify the nature of problem-solving and how strategies for teaching problem- solving are incorporated into the classroom

Technology and Mathematics

- Assist elementary teachers with ideas and examples on the use of calculators and micro-computers in the classroom
- Provide resource people who can show how to use micro-computers in math classes for teaching, review, etc.

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Evaluation Procedures

- Illustrate the use of standardized test results for curricular and instructional decisions at all grade levels
- Help secondary teachers use evaluation techniques for diagnostic decision making which might involve use of small groups, etc.

In addition to data from the Compact as a whole, information for each of the participating Compact districts was also produced. Each district formed a needs assessment committee to review the results and identify inservice needs that may be unique to its setting. Inservice activities identified in individual districts were coordinated with the Compact-wide effort to improve mathematics learning and instruction for students.

From the outset of the Project design and the needs assessment stages, the principals were involved. They are the instructional leaders in their buildings who observe teacher performance and who communicate the goals and mission of the school. They are an extremely important group to the success of the programming. At their initial Principals' Awareness Meeting, methods to support teachers in developing a strong mathematics leadership and creative program were discussed. Below are examples of the 60 principals suggested means of involvement:

- Encourage teachers who are taking graduate courses, attending professional meetings or reading professional journals to share the information with colleagues.
- Publicize and support the Six District Educational Compact Mathematics and Science Inservice Committee activities.
- Encourage cross-discipline or cross-grade level discussions regarding how problem-solving skills of children can be encouraged.
- Promote mathematics with parents through the school newsletter, public meetings, etc.
- Provide support to teachers, students and parents who focus upon positive mathematics teaching and learning activities.

Principal-directed Activities

- Make mathematics instruction a school building target or goal.
- Support teacher networking.
- Support Mathematics Department chair planning.
- Support efforts to obtain state-of-the art computer equipment, software, and supplies.
- Encourage business, technical, professional and university representatives to come to school and talk about how mathematics is used in their jobs.

Competitions and Special Activities

- Principals' Mathematics Club to promote the acquisition of basic facts and skills
- Supporting Mathematics Day or Week activities

SECOND NEEDS ASSESSMENT

Because all of the participants in the Math Inservice Committee believed in the value of providing current programming, a second needs assessment was concluded in the spring of 1990.

The purposes of the questionnaire were to:

- Develop a profile of Compact teachers of mathematics
- Determine the extent of teacher involvement in mathematics inservice activities over the past year
- Prioritize future Compact mathematics inservice activities

The initial draft of the survey was reviewed by the Math Inservice Committee, and recommendations made were incorporated. The revised survey was sent to affiliated Compact schools with directions requesting the principals to distribute the survey to teachers of mathematics.

The survey results were used by the Math Inservice Committee to formulate plans and recommendations for future activities. Once again, the programs were designed for Compact-wide delivery and for specific district needs.

Three hundred sixty-three (363) surveys were included in this study. The completed surveys represented approximately 69% of the Compact teachers who have a specific mathematics instructional role.

A Profile of Compact Teachers of Mathematics

The 363 respondents represented five school districts and affiliated private schools. Approximately 72% of the respondents were teachers from grades K-4, 17% were teachers of middle grades, and 11% were teachers in grades 9-12.

One interesting finding from the survey was that 52.3% of all teachers who returned the surveys reported that they had 15 or more years of teaching experience. Even more dramatic was the finding that 70% of the secondary teachers reported 15 or more years of teaching experience. Based upon the information provided by the survey, it can be assumed that the Compact mathematics teaching personnel are very experienced. Any inservice or staff development support activities must take into account the experience and demonstrated expertise of these individuals. From the profile provided by the teachers, it can be inferred that any Compact long-range plans to improve mathematics instruction must include consideration for the recruitment of highly qualified replacements for experienced mathematics teachers nearing retirement.

Compact Teacher Involvement in Mathematics Inservice Activities

The survey asked each teacher, "Have you participated in a mathematics inservice activity or professional meeting during the past year?" Over 177 mathematics staff development or professional activities were identified by the respondents. These activities ranged from one hour after-school meetings to participation in long-term activities such as those sponsored by the Cuyahoga Falls City Schools NCTM Study Committee. Compact- sponsored activities and the Cuyahoga Falls NCTM activities were the most popular activities identified. Other activities in which teachers participated over the past year included activities sponsored by the Ohio Department of Education, professional meetings, inservice projects related to special projects such as the Lighthouse Project, and district meetings. An interesting finding was that nearly half of the respondents stated that they did participate in at least one mathematics staff development or professional activity over the course of the year. This is a much higher level of participation than one would normally find in Ohio school districts. This is particularly significant considering that the Compact teaching staff is experienced and most of the activities are undertaken by the teachers on a voluntary and unpaid basis.

Future Compact Mathematics Activities

The most prominent needs identified were the following:

- Teachers need training to effectively use the computer
- Computers need to be made available for mathematics instruction
- Calculators need to be made available for mathematics instruction
- Students need to improve attitudes about problem-solving
- More problem-solving activities need to be built into mathematics instruction
- Assistance needs to be provided to enable teachers to demonstrate how mathematics materials are related to every day instruction

The teachers were also asked to suggest activities the Math Inservice Project should undertake during the next year. Suggestions made by the teachers were to increase computer access and to provide more inservice on manipulatives, general topics, and problem-solving.

Recommendations for Future Compact Activities

The Math Inservice Committee used the needs assessment data, their knowledge about school needs, and State mathematics education mandates to develop the following recommendations for Compact administrative consideration:

1. State of Ohio mathematics curriculum, testing and instruction requirements--inservice topics include:

    - S.B.140 Mathematics Curriculum Requirements
    - S.B. 140 Testing Requirements
    - Computers and related software
    - Calculators
    - Manipulatives
    - Cooperative learning
    - Problem solving
    - NCTM Standards
    - Textbook adoption guidelines

    It is recommended that teacher representatives from across the Compact be released from classroom instruction to participate in workshops over the course of the year. Teachers who attend the workshops would go back to their home schools and share the information.

2. NCTM - Cuyahoga Falls Study--The group recommends that the inservice recommendations be incorporated into the workshops offered throughout the year.

3. Math Day (April 19, 1991)

   - Needs to continue
   - The administrators should distribute participation certificates at school board meetings.
   - Expand publicity for the program

4. NCTM Regional Conference--Provide support for Elcanor Kane, Judy Clawson, and Mary Jane Stanchina to present Math Day at the NCTM Regional Conference in Louisville, KY, October 11 and 12, 1991.

5. NEOEA (October 12, 1990)--Use this day for a Compact-wide work session. Time would be devoted to grades K-12 discussions of the State recommended math curriculum and required testing. Inservice activities would be planned and/or finalized for the year.

6. NEOEA (October, 1991)--Use this day for Compact teachers to visit area businesses to look at real world need for mathematics. (The corporation visits have been valuable in meeting this recommendation.)

7. Newsletter--The committee recommends that the Newsletter be continued.

8. Dr. Johnny Hill and Dr. M. Vere DeVault--A series of meetings are being planned with Dr. Johnny Hill and Dr. M. Vere DeVault as the consultants.

9. Mathematics and Science--It is clear that science teachers would like to begin activities similar to those sponsored by the math group. Administrative direction needs to be provided for this issue.

Collaborative Decision Making in the Planning Process

The Six District Educational Compact Mathematics and Science Inservice Project exemplifies the collaborative decision-making process. An underlying theme of the Project's efforts is "Mathematics Staff Development Activities for Teachers and Administrators, Planned by Teacherss and Administrators." Critical to this whole process is the Math Inservice Committee. As noted previously, the membership consists of an elementary teacher, a middle school mathematics teacher, a high school mathematics teacher, and one principal from each participating district, plus one representative of the affiliated private school. Their major responsibilities include:

- The general planning of programs
- Visitations to area industries and businesses
- Delivery of inservice activities for both the Compact and district- specific follow-up activities
- Evaluating the activities and making recommendations for future programming

The Executive Director of the Six District Educational Compact chairs the committee and utilizes the expertise of a university professor as a resource person and evaluator.

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Operationally, this committee continues to experience on-going success with decision-making. Various reasons might explain this:

- The members are current leaders in their school districts. Efforts were made to elicit strong and positive teachers for this long-term project.
- There is respect for this collegial model of staff development. No attempts have ever existed to impose a "top down" management style.
- Initial activities provided an opportunity for these leaders to have dialogue with each other and to participate in leadership development activities. Since the group has had an ongoing relationship with each other they have developed a sense of trust and confidence in each other which has facilitated the planning process.
- The committee members are now viewed as "teacher leaders" and assume a leadership role within their own school, within other districts and in some cases, at the State level. It has developed into a "trainer of trainers" model.
- The initial planning was done systematically and with great thought. Consequently, the design of programming is logical and timely, meets the goals, and addresses concerns of the teachers with the ultimate goal to reach every student.
- At no time was this project ever considered to be one of remediation.

The Math Inservice Committee (teachers and principals) and the Administrative Steering Committee (assistant superintendents) periodically meet together to help facilitate collaboration. By and large, the groups use consensus as the primary process for collaborative decision-making. A school district finding any proposed activity inappropriate does have veto power or may decide not to participate in that activity.

Adaptability of Staff Development Project

The strength of this Project is that it does provide an exemplary model that can be adapted in different school sites. This model would be most effective working with small districts that have limited budgets. The concept of organizing a Compact configuration and pooling resources provides an opportunity for small districts to participate in "big league" activities. The nature of this project does require budgetary support, and from the budgetary support standpoint the collaboration is absolutely essential; that is, pooling smaller amounts of money that might be made available by the State and other funding sources can make the difference between a good idea and a project that has significant impact upon individuals in the school district. The Dwight D. Eisenhower Math and Science Education Act funds permit these districts to maintain and expand this significant impact.

The second major part of this project is that it demonstrates that teachers and building level administrators, when provided support, can plan effective staff development activities for themselves. A critical factor of this project is that teachers choose to participate in these activities voluntarily with the primary incentive being their own professional growth. This is an extremely important component of the project.

Success of the Project

Each activity of the project is evaluated by participants. In addition, the Math Inservice Committee reviews individual project evaluations aand develops a comprehensive evaluation for itself. This committee provides a teacher/building principal perspective towards the evaluation. District central office administrators also evaluate the activities with respect to their meeting the goals and objectives. Overall these evaluations have shwon the project to be successful. More important than these quantitative measures have been the qualitative measures, particularly those where teachers choose to participate in the program; that is, teachers "vote with their feet", and the results of this have been successful. For example, on October 10, 1986, the first conference was attended by 130 people and they stated it was very successful. The following year a conference was planned again with over 400 participants. The huge success of the 1987 conference was based largely upon the success of the 1986 conference. This growth in participation has been on-going which demonstrates "a need" exists for this type of professional staff development.

Eisenhower Sponsored Inservice Programs

The Math Inservice Committee meets two-three times during the year and two days during the summer recess. These are planning/work sessions to develop the specific mathematics programs/workshops which will be offered . The following represents examples of such activities:

Newsletter

'SUMMING IT UP' is produced three times during the year to publicize activities of the committee, to highlight teacher ideas and teaching tips,to share textbook information and technical questions, and to update teachers on the latest mathematical teaching research. It is sent to all counselors, principals, curriculum directors and teachers of mathematics, grades K-12 (610 teachers).

After School Specials

These "Specials" offer a "teacher exchange" of information about improved teaching methods. They are designed according to grade level groupings. They highlight real mathematical content concerns, issues and solutions which teachers experience in the classroom. Topical examples are: geometry, Instant Ideas on Fractions, math proficiency-intervention strategies, graphing calculators, positive math attitudes, algebra, trends in high school math, and story problems.

Workshops/Seminars

The following are representative of the focus and nature of such activities:

- "Touching Tomorrow- Using the Solar System in Problem-Solving in Math and Science" was developed in conjunction with the NASA Lewis Research Center in Cleveland. Fifteen (15) elementary and middle school teachers participated in this five week workshop with these goals:

    1. Introduce ways to teach about the "world of tomorrow", especially as it relates to the Earth and Moon
    2. Demonstrate the "team" approach in solving problems through practical experiences
    3. Explore ways to teach about the International Space Year

- "Mathematically Speaking", an all-day meeting, was attended by 140 teachers. Presenters included Compact mathematics teachers, university math educators and national speakers - Dr. Harvey Long from IBM and Captain David Walker, a NASA astronaut.

- "The NCTM Standards Model Competency Based Mathematics Program and You", an all-day meeting, was attended by 91 teachers and administrators. The focus was on "What does this mean to me as a teacher . . . . at the elementary level,
  at the middle school level,
  at the high school level?"

- "Mathematics Day for K through 12, A Conference for Teachers Planned by Teachers" had over 400 participants along with twelve presenters focus on problem-solving and critical thinking, technology in the mathematics classroom and teaching techniques and learning styles. For 52 teachers in grades K-3, the "Make-It-Take-It" workshop was a highlight.

- "Dr. Johnny Hill" Workshops have been a raving success with approximately 350 teachers and administrators. Dr. Hill is a professor at Miami University, Oxford, Ohio. He is actively involved with numerous state and national mathematics organizations, including the National Council of Teachers of Mathematics. His three-four day workshops have been offered during the past five years to teachers, grades K-12 and to administrators. Topics have included:

  - Moving Into the 21st Century with Mathematics
  - The Ohio Mathematics Model
  - Assessment for NCTM Standards and High School Proficiency Tests
  - Elementary Mathematics Education: A New Direction
  - Mathematics: Its Reputation and Its Character--Are They the Same?

- "Problem-Solving and Manipulatives" was a three day workshop for 68 teachers with Dr. Vere DeVault, a professor of mathematics at the University of Wisconsin - Madison. He is a noted author in mathematics education, computer education and robotics.

  Eighteen teachers and administrators joined Dr. DeVault for a dinner discussion of mathematics.

- Applying the NCTM Standards in Your Classroom" was attended by 175 teachers with four national speakers. Topics included technology, creativity in mathematics, the NCTM standards implications in classrooms, and problem-solving at the elementary level.

Other Activities

- Proficiency Testing! Competency Testing! . . . A Seminar for Administrators and Teachers (one-day seminar with 85 people)

- Using Manipulatives in Mathematics Instruction (a three-day program with 48 people)

- Problem-Solving: An Activities Approach for Mathematics and Science (a three-day program in conjunction with NASA Lewis Research Center, involving 24 teachers)

- Teaching Problem-Solving Strategies (grades K-8) and The Ohio Model Competency Mathematics Program
  (a five-day workshop with 39 teachers)

- Cooperative Learning Workshop with Emphasis on Mathematics
  (a five-week workshop with 17 teachers)

- NCTM Study - Addressing Curriculum and Evaluation Standards in School Mathematics
  (25 teachers, K-12, met for six weeks with this indepth study)

Business/Industry Visitations

The Math Inservice Committee visits to businesses and industries continue to be extremely popular as a summer activity. The purpose is for teachers to see the applicability of mathematics in the "real world". This information is then incorporated into mathematics lessons and classroom content. The visitations allow for educators and business/industry personnel to interact and to better understand roles and responsibilities.

Listed below are the sites visited, to date:

A. Schulman Company (manufacturer of polymer resins)
F. W. Albrecht Grocery Company
Ohio Edison (utility)
Goodyear Tire and Rubber Company, Research Division
Society Bank
Children's Hospital
NASA Lewis Research Center
ALLTEL (utility)
Malley's Chocolates
O'Neil's/May Company Department Store
Kent State University, Department of Mathematics
University of Akron, Department of Mathematics

Conferences

The Dwight D. Eisenhower Math and Science Education Act enabled approximately 118 teachers to attend the following conferences, both as presenters and participants:

Mathematics Education Forum on NCTM's Curriculum and Evaluation Standards For School Mathematics; Kent State University, Kent, Ohio

Ohio Math and Science Summit: Reform Is Your Business; Columbus, Ohio
General Mathematics: A Class by Itself; Toledo, Ohio

OCTM, 1989, 1990, 1991 (as presenters and participants); Cleveland, Zanesville, and Columbus, Ohio

NCTM Regional Conferences; Louisville, Kentucky; Columbus, Ohio

Lola May Conference; Cleveland, Ohio

Operation Physics, Kent State University; Kent, Ohio

Operation Chemistry, Kent State University; Kent, Ohio

Math Day

A creative member of the Committee proposed that a "Math Day" be implemented in April (since that is Math Education Month). The first "Math Day" in the Compact was April 22, 1988.Each school district celebrated Math Day in different ways, but the object was to highlight math in every subject area to demonstrate the importance of math in all aspects of education and life.

Thousands of students have been reached through this on-going project. Teacher resource books are distributed yearly to colleagues with materials illustrating how mathematics could be emphasized in all academic areas.

The following themes have been used for this spectacular day:

Math Multiplies Knowledge
You Can Count On Earth, Can Earth Count On You?
Math Makes The World Go Round
Math Ties It All Together
Math: Everybody Counts.

The Committee felt it was important to have a State-wide Math Day. Thus, a local legislator agreed to sponsor legislation and Ohio now has a State Math Day - the third Friday of April. The Legislative Proclamation and Recognition from the Governor's office to the Superintendents and the Math Inservice Comittee was presented on April 21, 1989.

Legislative Activities

Throughout the eight years of this project, there has always been a concern about the negative press from the business/industrial world, as well as from various privately funded studies regarding the poor mathematic skills of high school graduates. To counteract that publicity and attitude, the Math Inservice Committee invited Congressman Tom Sawyer to attend a "Legislative Forum" on November 2, 1988 for an opportunity to explain their model, activities and successes; learn more about Mr. Sawyer's "Critical Skills" Bill; and provide time for dialogue concerning mathematic skills, needs, etc. The Forum was tremendously successful, and opportunities were created for continuing such dialogue and program sharing.

Lighthouse Education Enhancement Project

As a direct result of the success of Math Inservice Committee project activities, the Administrative Steering Committee recognized that the current model so frequently employed in teaching of mathematics and the training of prospective teachers needed to be analyzed and changed. Two Compact school districts, Tallmadge and Woodridge, agreed to move forward with this initiative. The Lighthouse Education Enhancement Project was created by area educators in cooperation with business and industry as a program to improve and expand mathematics instruction.

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It was developed because:

- Nationwide studies in mathematics reveal that American students are falling behind their counterparts in those countries we compete with technologically and economically.
- Lack of mathematical competency is second to illiteracy as a national problem.
- Immediate changes, as proposed by the National Council of Teachers of Mathematics, are needed in the mathematics curriculum.

Objectives of the Lighthouse Education Enhancement Project include:

- Training new and practicing teachers to change what they teach, and to use computers efficiently and appropriately as an instructional tool
- Placing computers in the classroom rather than in isolated laboratory settings
- Improving students' skills in the areas of critical thinking, cooperative learning, and problem-solving
- Creating an ongoing opportunity for business and industry to participate in the educational reform movement

The Lighthouse Education Enhancement Project involves:

- Kent State University, College of Education - where teacher trainees learn the new strategies and techniques of mathematics instruction
- Kent State University, Bureau of Research - which conducts a long-term evaluation of the project
- Tallmadge City Schools, Woodridge Local Schools, and Akron City Schools - where the program is being piloted in the elementary mathematics classrooms
- IBM Corporation - which awarded a $300,000 grant for hardware, software, and staff training to initiate the project
- GAR Foundation - which awarded a $500,000 grant for hardware, software and staff training to initiate the project

Dwight D. Eisenhower Math and Science Education Act has been a vital part of this Project design for systemic change in mathematics.

SCIENCE INSERVICE COMMITTEE

Due to the success of the Math Inservice Committee, the decision was made to develop Science Inservice according to the same model. In 1991, a committee was identified and a needs assessment completed.

The Science Needs Assessment Survey has provided much valuable information related to directing the improvement of science instruction for grades K-12. Specific concerns raised by teachers include:

Elementary Grades

Laboratory assistance for preparing science activities and for consultation is non-existent.

Funding for science supplies is limited or does not exist.

Space for science activities and for storage is very limited.

Large class sizes make conducting activities difficult.

Secondary Grades

There is no time available to set up science experiments and activities.

It is difficult to keep equipment maintained.

Teaching materials are out of date.

Communication about science instruction across grade levels is inadequate.

Recommendations

Elementary

Inservice should concentrate on incorporating science into an interdisciplinary approach, tying a scientific problem-solving approach to mathematics, language arts and social studies.

Activities presented in the workshops should include the scientific background needed to help each teacher feel comfortable with the unit.

Activities presented should use very basic equipment that relates to the child's every day environment.

Materials required for each activity presented should be given to each participant as part of the workshop.

Secondary

In the secondary schools, more detailed information is needed before the planning of science inservice and potential major curriculum revision is initiated. This information specifically is:

> What percent of the teaching staff are at a stage in their career where they are contemplating retirement? Within the next few years, how many new science teachers will be employed in the districts?
>
> What type of certification do the science teachers have - Comprehensive Science, or specific subjects, i.e., Biology, Chemistry, Physics, Earth Science?

This information would give guidance in identifying the practicality of undertaking a major science curriculum revision and developing a related timetable.

National Studies on science education such as **Project 2061 - Education for a Changing Future and Scope, Sequence and Coordination of Secondary School Science** are strongly encouraging a revision of science curriculum to reflect the interdisciplinary nature of the earth, life and physical sciences. To accomplish this does require teachers with a much more diverse science background than in the past. Much study and teacher support needs to be given before such an effort is initiated.

A plan of action, timeline, and possible activities for inservice will be completed by September, 1993.

Even though the science model is just now underway, there has been an opportunity available for science teachers since 1990, the Summer Science Internship.

The Internship is designed to enable Compact science teachers to work with practicing scientists during summer months. The purposes of the Internship are:

- To provide the science teacher an opportunity to remain current with the latest technologies, scientific information and practices
- To enhance scientific professional growth
- To help science teachers design classroom strategies leading to better student understanding and application of scientific principles
- To develop better cooperation among industry, academic institutions and government agencies for science education
- To help the school system retain its experienced teachers while enhancing their classroom skills
- To assist science teachers to expand their awareness of the "real world" workplace requirements

After the Internship experience, each participant prepares a summary report, develops curriculum materials to be used in the classroom and shares with other teachers, and will participate in a "Forum in the Fall".

Sponsors of this outstanding program have been Goodyear Tire and Rubber; Goodrich Research; Monsanto Research and Development; Northeastern Ohio Universities College of Medicine; Liquid Crystal Institute, Kent State University; Polymer Institute, the University of Akron.

Summary

The intent of this written testimony has been to provide an understanding of a collaborative and collegial structure for the delivery of staff development for mathematics teachers and other interested groups - counselors, administrators, parents, business/industry and students. Teachers, as the planning entity, have designed and implemented valid and credible programs. The energy and passion of the committee continues to make these efforts successful.

Highlights of this delivery structure, as provided by funding through the Dwight D. Eisenhower Math and Science Education Act, include:

> The Compact Math Inservice Project is a model that illustrates how collaboration for staff development can ocur across several school districts and across grade levels (K-12).
>
> The Compact Math Inservice Project serves as an examplar of staff development activities that are planned by teachers and administrators for teachers and administrators.
>
> Since the Compact Math Project's beginning in 1986, the project has grown in momentum and other area school districts are requesting to join the Compact. This is probably the program's greatest indicator of success.
>
> The Compact Math Project features a grade K-12 effort to improve mathematics instruction in elementary and secondary schools. The Compact Mathematics Project has successfully involved hundreds of teachers (K-12) on a volunteer basis.
>
> The Compact Mathematics Project is an example of the impact pooled financial and human resources can have in providing successful staff development.

The Six District Educational Compact personnel commends the Committee and Congress for creating a vehicle through the Dwight D. Eisenower Math and Science Education Act by which educators have accessibility to funding for professional growth opportunities.

Thank you.

Mr. **Roemer**. Thank you. And thank all four of your for your very helpful testimony as we look at reforming education throughout this country. Let me start by asking a couple of questions to the panel, but with a very, very short preface.

One of the great things about the Eisenhower Program is that it touches so many different teachers. I think the percentages are extraordinary, in that it may touch 85 to 90 percent of the teachers. However, it touches them for an average of maybe less than 6 hours over this year period.

As a former teacher, as somebody who spends a lot of time in our schools, I think it is one of the most shameful parts of American education that we don't invest more in our teacher training programs. Reading Among Schoolchildren, a book by Tracy Kidder, I can see the history of how we've treated our teachers.

Again, this program, hopefully, as we attempt to make improvements in it, will give us better opportunities to have our teachers be comfortable with new technology, to keep up with the latest in math and science techniques. We're trying to find ways by which to do that. Obviously, we have some disagreement on this panel as to how we accomplish it.

Let me ask Ms. Stanchina a question first of all. Let's say that we kept the funding at the same levels in these three different components. How might we encourage—or at least we kept the categories the same—how might we encourage the kind of collaborative efforts that we've seen in Ohio take place even more easily in the future?

Ms. **Stanchina**. I think that it's difficult, first of all, for people to understand how school district personnel can communicate with each other and work cooperatively, because education is often viewed as a turfy area.

Our compact has been in existence for 23 years. Now, that has allowed time for people to build trust and to build rapport with one another and to develop the lines of communication. I think that that has to occur before collaborative efforts can be extremely successful.

I'm working with Project Discovery, the National Science Foundation initiative in Ohio, and we're trying to pull massive numbers of people together in regional ways for the delivery of teaching science through an inquiry-based method. Well, it's difficult to get people to agree on what the meeting date is going to be and where it's going to be, let alone how we can deliver and make use of these small numbers of resources.

I think that overall in education there has to be a greater emphasis moving toward collaboratives and cooperative arrangements, but that can't be mandated, from my standpoint, for it to be successful. There has to be an inherent wish to do that, and, certainly, not everyone chooses to operate in that fashion.

I think, however, that school districts, once they see how successful programming can be by pooling those dollars, then will be more serious about that mode. In our area, we have two counties adjoining my two, that have been watching what we've been doing, and they are now pooling their dollars, but it has taken them about 3 years to be able to get to that point.

So I think it is a difficult issue because you want teachers to have as many hours and as many ongoing activities as possible. But I think, at least in Ohio, that thought is becoming more popular.

Mr. **Roemer**. Are you satisfied with the way that the funds are allocated at this point?

Ms. **Stanchina**. Yes, I am, and I will clarify that in that it's not difficult to use the moneys. It's not difficult to obtain the moneys, and the moneys are specific enough that tells us the content areas but, yet, gives us some leeway with which to use those dollars.

And I plead for that, because the more rules and the more regulations and the more guidelines make the delivery of the programming that much more difficult. So we have found it to be very easy to use.

Mr. **Roemer**. Dr. Zucker. Obviously you disagree with much of what has been said. How might you allocate these funds, and, if you could be more specific in terms of allocations toward higher education, how might this impact the local school district if we move money to higher educational institutions?

What would happen if, in that particular school district—if it's not like my district in Indiana, where I have nine universities—what if that district doesn't have any colleges and universities or it's not close to institutions of higher learning?

Mr. **Zucker**. Well, I think that Ms. Stanchina has described a consortium that sounds very, very effective in the use of its funds. It's strategic, and it began with one strategy, which was mathematics, and moved on after a period of years. If all the districts in all of the consortia were equally effective, then our recommendation would not make sense.

But what we found was that there was a lot of variation in the quality of what was happening in the districts, with some districts taking a lot of leadership and thinking very wisely about how to use these limited funds, and others really not doing that.

So we found, overall, that the higher education and State leadership activities were better designed. But we're certainly not saying, do away with the district activities, because they are very, very important.

All the awareness building of these short experiences for teachers who are given an opportunity to go to a State conference, for example, that's a very common kind of activity under Eisenhower, and a very important one. They build up these professional collegial networks; they learn about new ideas. We documented in our study where people who learned for the first time that there were these NCTM standards by going to a State conference. That's very important kind of learning. But we felt that more money put into the State leadership and higher education activities would be productive.

If the district is in a part of the State that doesn't have a lot of institutions of higher education, many of these projects are summer projects, and they often operate as residential programs. So there are those kinds of opportunities.

And many of the universities that are service-oriented will go to great lengths to put together programs for smaller districts, districts out of the way. They'll put together some kind of a branch office or send somebody out to do workshops. So I think that there aren't that many parts of the country that are really out of reach of either the State or higher education components of the program.

Mr. **Roemer**. So, let me ask again, too, if we are currently giving about 4 percent of these funds to State leadership activities and 24 percent to higher education, how would you recommend to this committee that we reallocate those funds?

Mr. **Zucker**. We gave as an example in our report that we might cap the district percentage at about half the available funds, provide 20 percent to the State leadership activity, and 30 percent to the higher education component. We didn't feel we had a magic formula, but that was just one possible way of reallocating the funds.

Mr. **Roemer**. And again, just so I'm clear, your purpose is, if I could just succinctly summarize the philosophy of your argument, instead of having a broad paintbrush effect on 80 or 90 percent of teachers, the program should try to concentrate more on intensive learning activities and opportunities for teachers that are usually provided at the higher education level and as a State activity.

Mr. **Zucker**. That's correct. One of the recommendations that we also included in the report, which wouldn't require reallocating funds, would be for districts to simply put a high priority on some long-term training of teachers.

Again, the district has to have a balance and probably will set aside some money to send those teachers to the State conference or the national conference, which is very appropriate. But some of those moneys should be held aside and guarded carefully and used for graduate-level courses or six, eight—there are creative ways to do that. Oftentimes, there will be two-hour sessions, but eight or ten of them spread over the year. There's a lot more continuity in that than there is in one two-day session, because teachers get a chance to think about and return to the subject matter over and over and work with their colleagues. So there are creative ways the districts can do that right now.

Mr. **Roemer**. Let me ask one final question of Dr. Marx and Dr. Roberts, too. You both mentioned a couple of times about the importance of technology, and we've talked about such exciting things as visual electronic libraries and electronic field trips. How do we tie technology development to reform schools and creatively reform schools? I can't stress enough how much emphasis I want to put on real reform around here, too.

Ms. **Roberts**. Well, what strikes me about the conversation that we just heard, you know, the question of, "How do you really help people move to change what they're doing?" It seems to me that the most important thing that technology offers in the short term is a way to bring people together.

Certainly, industry has begun to understand the power of telecommunications, and even some of the school districts in States—I think about Texas as a particular example—have understood that you want to find the expertise and the creative ideas and the effective practices wherever they are. And in some cases, it's obviously going to be a mix of the university community, the higher education institutions, and the local school districts.

What strikes me about a number of the projects that we looked at that were making very effective use of technology, particularly in the area of science instruction, was the way in which telecommunications became the force or the catalyst for shared opportunities.

So teachers, for examples, whose students were collecting data on acid rain or radon in their communities discovered that there were some very exciting things that they were doing, that they were working on, that they could share with each other.

So I don't think there's any single best way to help reform happen, but I think that, particularly in the case of the technologies, we have some resources we are just not using well. The Federal Government has invested in those resources. The Federal Government is going to continue to invest in those resources, and we tend to think of it sort of as an after-fact when, in fact, we could be doing much more with what we have.

Mr. **Marx**. Well, I would like to sing the tune that sounds very much like what we've heard some of our other panelists talking about, particularly Dr. Zucker and Ms. Stanchina, and that is that I think it's important to concentrate one's energies rather than spread them around, particularly in technology innovation.

If we gave each school $X in the country to spend on technology, we would probably have thrown that money away. If a computer or a CD-ROM player or a video digitizer, or any of this kind of exotic thing, go into a classroom, and the teacher doesn't know how to use it, then we might as well not have put it there.

In fact, we probably would have done some damage because then we've told the teacher, "Here's a tool that you could have. You don't know how to use it, so there's something wrong with you now." So it's probably more damaging to spread it around than to concentrate energies.

Now, there's another story to be told in this debate over here. It has to do with the bottom-up versus top-down approach to change.

If we are to concentrate energies at the State and even at the higher education institutions, depending on how they work, what you get is a metaphor of change that says, "I have an idea." Marx has an idea. "I'm going to come to your district or your districts, and I'm going to try to convince you teachers that my idea is a good one."

Another approach to this, which is the approach that we hear from Ohio, is that I have a bunch of schools with teachers in them, and we, together, are going to create some ideas about how we want to change. I think the literature speaks very clearly that teacher change that comes from the teachers themselves is more lasting, enduring, and sustained.

The question is, where do they get the ideas? Some of the ideas come from their work with kids, no doubt, but when it comes to technology, if they don't know what the technology is, they can't think of what it might be. So we have to have some kind of creative way of getting the people who are doing the cutting-edge work on system development together with teachers who have a lot of knowledge about how to use those kinds of systems with kids.

My approach would be to concentrate one's resources in particular places where there is already some effort underway and where some teachers know how to use these things, where there's support of central office people who can help that happen, and there is some energy that comes from either a university or business and industry, as well, who have some good ideas.

Mr. **Roemer**. So that wouldn't necessarily have to mean that those two people's ideas are opposed. I mean, we can see the collaborative efforts happening in different school districts where we do have a base of knowledge and experience and information.

Mr. **Marx**. Right.

Mr. **Roemer**. We could also see Dr. Zucker's ideas, where money goes to a college or a higher institution of education, and they have experience in some form of science or math or technology in distributing these ideas.

Mr. **Marx**. That's right.

Mr. **Roemer**. They could serve as a collaborative pool of resources, as well, too.

Mr. **Marx**. I think it's important to recognize that all these parties bring different kinds of strengths and expertise to the table. It's not one party that has all—you know, it's not the academics who have the expertise, and they're going to tell the world how to behave. I think that's the wrong metaphor.

The question is, and I don't know if Ms. Stanchina would agree to this, it seems to me that some device has to be built into a policy that specifies that some long-term planning has to take place in order for the funds to be allocated. Now, you might not like that, but I think that's——

Ms. **Stanchina**. And I think that makes sense. In our compact, particularly for this math and science project, we rely heavily on resources from the university. We have the University of Akron and Kent State University within eight miles of our six school districts, and, so, we rely heavily on their resources and expertise. And we have a number of business and industries that work with us who are very much into technology.

We, in our six districts, are looking at the issues of distance learning. Our schools are no more than 15 minutes away from each other. For many, many years, we have had arrangements that, if a student from one school wanted to go to another to take a certain course that wasn't offered in that other district, those arrangements could work.

But it means a period to get there; it means a period to return. If we had distance learning capacities, we could have an abundant number of academic and vocational and extracurricular activities available to students in those six districts.

But our difficulty is that we do not have fiber, and, so, we're trying now to find ways to look at dial-up so that we can at least start moving, because the fiber is not available in all of our six districts and communities. We've been spending a lot of time working with the telecommunications systems to help us design that system.

If we had the dollars for that, we could go tomorrow, in terms of, we have already identified how we would use that and what we would use it for. And certainly, the expansion of mathematics and science opportunities, not just for students but for teachers and parents and people in communities, could be extraordinary.

Mr. **Roemer**. Thank you. My time is up.

Mr. Gunderson.

Mr. **Gunderson**. Thank you, Mr. Chairman, and thank you all for your presentation. Let's focus first on this issue of technology.

One of the challenges we face here is the coordination of Federal leadership funds. I mean, you can go everywhere from Chapter 1 to Chapter 2 to bilingual to Eisenhower to STAR schools to vocational education to magnet schools to handicapped.

Then you add to that the National Science Foundation and DOD. I mean, everybody out there has got some kind of fund for technology, education, et cetera. What do we do to coordinate it all, or don't we? Do we just let it happen?

Mr. **Marx**. I won't give a facetious response.

[Laughter.]

Mr. **Marx**. In some sense, I think the strength of the economy in this country is that you have people in different regions working on what they want to do, different industries, and that kind of diversity, plurality, leads to a very strong economy. So the competition in the private sector is good.

So, metaphorically, I think that the same thing is good in these kinds of developments. That is that I think too much control over these energies will not lead to the kind of innovation that I think we need. So my first response is that tight linkage is not desirable. On the other hand, I don't even think it's possible to get all these agencies all marching to the same drummer.

I'm new at this game. I don't really know how Federal policy is formulated. But I know at my university, every time I want to ask somebody at a higher authority for a buck, they say, "Yeah, we'll give you a buck if you put a buck in." So that kind of matching funds gets a lot of coordination, and we get a lot of interdisciplinary work done on the University of Michigan campus by this kind of blending.

I'm a department chair, so I yell and scream every time I'm required to spend a little bit of money that way. But on the other hand, it does give us a lot of coordination, so that might be a tool that could be used to—a matching fund tool that isn't used as a stick over people's heads, but is more seen as a way of doubling one's yield for the effort of writing a grant proposal.

Ms. **Stanchina**. I'm, perhaps, interpreting your question somewhat differently, so my answer may be a little bit different.

I've spent 20 years professionally working in regionalized programs for educational services, and I've worked in cities, suburban areas, and in Appalachian parts of Ohio. I think that regional services make sense and that States could be divided into regions for the delivery of those services.

For instance, in Ohio right now, we now have resource service areas. I would think that through that type of configuration, if we knew that there were Project Discovery dollars in Ohio, if we knew there were math and science dollars, if we knew that there were special NASA moneys, and the list could go on, tech prep moneys, et cetera.

Those five that I just mentioned, as far as I'm concerned, are all integrated, and I already have, in our Six District, plans on how we're going to use those dollars from those five areas for all types of programs and services. So I don't think it's unmanageable, but I think there has to be some type of designation that such integration and coordination must exist.

Mr. **Gunderson**. Well, you bring up a new issue, because I have been struck by the barriers to that kind of regional cooperation among LEAs in terms of Federal programs. Most of them aren't eligible to apply for funding. I mean, it's to the State, and then it's to the LEA, and God help us if there's any cooperative effort in between, you're not eligible. I mean, is that a pretty constant problem?

Ms. **Stanchina**. I think that's a pretty constant problem, and I think that the configuration from which I come, a compact, represents how six school districts who for 23 years have worked together can provide any type of academic, vocational service that you can devise.

But that concept of working together in a regional effort has to take some time to be developed. And that's why I'm always happy to sing the song about regionalized programs, because we have examples that demonstrate that success.

Mr. **Gunderson**. Yes.

Ms. **Roberts**. Well, if I understand your question correctly, I think what you're aiming at is trying to figure out a way to really increase the technological capability of the schools in a coherent way. I mean, I think that's your bottom line.

Mr. **Gunderson**. That's the goal. That's correct.

Ms. **Roberts**. And it is striking that we think about technology on such a compartmentalized basis, whether we think of it school district by school district or school by school or program by program.

I think that, ultimately, there are many solutions to increase the capacity to acquire the appropriate hardware, the appropriate software, the appropriate telecommunications, the appropriate teacher training and technical support that's needed. And in some communities, the logical glue is the regional agency.

In other communities, there may be other kinds of entities that can start to help pull these things together, but, from my point of view, there is also the Federal program. What do we do at the Federal level to bring some coherence to what we're doing?

And it's very striking to me that we don't have, when we think at OTA about who are we going to go talk to about the Department of Education's educational technology point of view, vision, if you will, we have no place to go. We have to go to a lot of different places.

You mentioned STAR schools. Well, there are STAR schools, there is special education, there's the math-science program, and there's no coherent message that's coming out at the Federal level about what we want to do with this technology and what kind of capability we ultimately want to achieve for every school and every classroom in this country.

Mr. **Gunderson**. This leads to my second and final question. I have put together a series of local working groups on this reauthorization process this year, one of which is in the math-science area.

Their message to us is the problem in dissemination of both information and money. I mean, they just don't know what's available. They don't know where to get it. They don't know if the State's getting it and they're not. They don't know if it's competitive grants. They don't know how—if you're an activist at that local school, they're not clear if their superintendent, their administration is getting it and not sending it down.

The dissemination question is apparently a real problem. And what we've been trying to do with math and science, we've got good ideas and we've never connected. What do we do to solve that problem?

Ms. **STANCHINA**. I don't know that that necessarily needs to be a problem. If the activities are being developed and teachers have the capacity of participating in staff development in a school district, I'm not sure that it's a necessity that they really know from where it comes.

I'm sure that—for instance, in the taxi coming from the hotel to the hearing this morning, a lady was talking to me about, she was a teacher, and she wanted to know what I was doing here today. And I told her, and she said, "Oh, what kind of moneys are those?" She said, "I'm a teacher, and I've never heard of those." But she didn't teach math or science, either.

And so I think that there may be even teachers in my six districts that don't know exactly where those dollars come from for our long-term efforts, but they know that they're able to participate and do certain kinds of things. But they may not be able to attach, they come from the Federal level, they're Eisenhower, they flow through the States. They might not know that.

Mr. **GUNDERSON**. I'm not comfortable with that, I have to tell you.

Ms. **ROBERTS**. I think, if I can sort of share some ideas that we've heard from people all around the country, it's really clear that teachers are the most isolated professionals that we have in this country. It's a misconception we have about what teachers do and what they ought to do.

And, you know, the public really thinks that the ideal is the one-room classroom, where the teacher was in charge of everything, and there are no interruptions. You just have to ask yourself, how many teachers in this country have a link to the outside with something as mundane as a telephone, and you begin to understand what we're talking about. How do you get information?

So it seems to me that there is no one, single approach, Congressman, that I would advocate. But I think that the first thing I would do is, I would recognize and say that we have to do better.

We have to get information to teachers in more effective ways, information about what works, information about how they can be better teachers, support systems, information about new curriculum, information about classrooms they might want to be hooked up with, classrooms in their own State, classrooms in their region, classrooms clear across the country.

I think we have a technological capability that we just are not using well at all. And it's not just technology, though, because I would want to bring the higher education institutions into the act. I would want to bring the State agencies around. I would want to bring the regional groups around, as well.

But I think that we have some tools that we just didn't have before, whether we're talking about some satellite teleconferences, whether we're talking about available networks for teachers, whether we're talking about even videotapes that could be made available to teachers so that they could see what's happening out there, and lastly, of course, giving them a telephone line, because I think it's crazy that we haven't done that in our schools.

Mr. **Gunderson**. The Chairman is trying to move this along. I'm not trying to cut anybody off.

Mr. **Zucker**. If I could just have a moment.

Chairman **Kildee**. Go ahead, Mr. Zucker.

Mr. **Zucker**. I think, to bring this to the Eisenhower Program, that that plays a positive role in disseminating information. There is a tremendous amount of activity between higher education institutions and school districts and teachers going off to conferences to learn new things.

And partly, we have to wait for a consensus to develop in the education community as to what is really productive. I think, for example, there's an increasing consensus that calculators are a very, very important part of teaching mathematics.

Basic calculators at the elementary school level, graphing calculators are becoming a very, very important part of teaching high school mathematics, and I think you're going to see that grow enormously in the coming years. And you could probably find hundreds of Eisenhower-supported activities in any given year, teaching teachers about the use of graphing calculators and other technology in the classroom.

Mr. **Marx**. I just have one perhaps related issue. Yesterday afternoon in the Post, there was a very tongue-in-cheek article about E-mail that was very, very funny. I recommend that you read it if you haven't had a chance. But one of the things that was said in that column—I don't know if it's true or not—in that article was that the traffic on Internet increases 20 percent a month.

Now, if that's true, then there are zillions of people around who are now using E-mail for communications who weren't doing it before. And this still leaves out teachers and kids in classrooms who are largely unconnected to Internet.

One way of disseminating information is to somehow get these lines into classrooms and get teachers familiar with E-mail. That would be one way that I think over the next 3 or 4 years, if we were to achieve that, if we were to get 25 percent of the classrooms of this country hooked up to electronic mail, that would be, I think, a very powerful device for getting the kind of information that you're suggesting out to teachers, at least those who want to use it.

It's not easy, by the way. We were funded by the National Science Foundation to provide telephone lines into the classrooms of the teachers participating in our work. We were funded to install the lines and pay the rentals, and in some of our school districts, we just couldn't get it done as long as we called them phone lines.

When we called them data transmission lines, then we got permission. But still, there's a very important—there's a big problem with security of these lines in classrooms, and school officials are reluctant to put them in.

Mr. **Gunderson**. Thank you.

Chairman **Kildee.** [presiding] I apologize for having to exit for a while, but I had to meet with the Chairman of the full committee on a very important matter pending before the committee, and there is no other time we could have done that, so I apologize for that.

Mr. Green.

Mr. **Green.** Thank you, Mr. Chairman. There was so much said that I can agree with. I think the teacher profession is isolated. My wife has been a math teacher for 20 years and is not familiar with the Eisenhower Program. I went home a month ago and asked her about it, and she didn't know what it was about. They do get inservice or professional development programs, but she's predominantly in an urban district, 40,000 students within the district.

That was one of my questions. I know the example of the consortium of school districts that have 23,000. Do any of you have any information on urban districts, particularly larger ones? Congressman Becerra and I just talked a minute ago. He's from L.A. Consolidated. Of course, Houston Independent School District is 200,000 students. How the Eisenhower Mathematics and Science Education Act provides for urban students, and I guess they do the same through the University of Houston, for example, in Houston, or UCLA in California, that provide.

The other question I would like is, what's the percentage now that goes to higher education, as compared to States and directly to districts? I know you suggested some percentages, but I would like to see what the percentages are. And I have a whole list of questions, since I have this panel here, about mathematics teaching and technology transfer, because we've done some things in Texas through the tenant, as we call it, the network.

Ms. **Roberts.** Yes, tenant.

Mr. **Green.** We have, I think, 19,000 teachers on it right now, but there are a lot of teachers, for example, who are not. It's tough.

Ms. **Roberts.** They don't even know about it.

Mr. **Green.** Yes, they don't know about it. Well, for example, I can see the hesitation. We had a student who used a phone line in the band hall to call California for a surf report. And the school districts found out about the second month when they got the phone bill. So there is some hesitation, but I can see the difference between a phone line and a data transfer line, unless you can data-transfer the surf report from California.

Anyway, the percentages, I guess, for higher education, do we have current numbers on that?

Mr. **Zucker.** I believe we do. I was going to start with a different question and pull out some figures on the percentages. If you don't mind, I would like to refer to notes when I answer that, so I'm more likely to be correct.

The urban centers are typically getting a lot of Eisenhower money. The formula that allocates money to the district is half by the number of students and half based on poverty data, similar to Chapter 1.

So the District of Columbia, I happened to look it up the other day, and it's an unusual case, because it includes the higher education moneys, too. It has been treated as though it's a State. But it's over $1 million for the District of Columbia. And other big cities would be getting big chunks of money.

Now, it's big in one sense. Then, you think about the need, you divide by the number of teachers who are math and science teachers, and you realize that it's—I don't know—under $100 per teacher. I don't know what the current number is, but it's not a lavish amount.

So I guess that answers that question as much as I could do it. I think that the district people in these urban centers would probably say that they value the program a good deal.

Mr. **Green**. Maybe not the classroom teacher, but someone who knows where the funding is coming from for those particular——

Mr. **Zucker**. Yes, that is a problem that has been identified here, and I know the Federal Government has tried to sort of stamp a brand name on the program more, but it's awfully hard to do, to guarantee that when somebody gets up, they say, "And this is brought to you by the Eisenhower Math and Science Education Program." So a lot of teachers don't know.

Mr. **Green**. We're making an effort to find out what districts, particularly in the Houston area, receive the funding, so we'll know that we can brag on it if it is.

Another question I have, and I guess the panel—this is not actually the subject today, Mr. Chairman, but on the technology transfer and the technology in the classrooms—and I've found that once we get business into the classrooms sometimes, they're almost like Bill Clinton going into the White House, saying, "I can't believe the phone systems are antiquated."

And we've had some examples of businesses adopting schools, for example, and coming in and saying, "Oh, I can't believe you don't have E-mail," for example. Although I have to admit we just got it in our office yesterday, but I'm a freshman.

And I even thought about it as a legislator, because we're always trying to attract businesses to districts and to communities, using the requirement that if you're trying to get a given plant in your community, they also are required, because they're going to save on their school property taxes, to adopt that particular high school or middle school, or whatever.

In that way, the lights will come on sometimes, because if you put a person who is used to electronic data transmission into a high school, and they find out there's just none in some of the urban schools that I know—if you have any experience from around the country that may be encouraging businesses to do that.

Ms. **Roberts**. Well, I think one of the most encouraging things that has happened is the active role that the telecommunications industry has played in—I mean, and it's in their self-interest, ultimately, to help schools discover the potential and use of telecommunications technologies.

But there are a number of—and the problem is, there are a number of; I mean, it's not universal—but there are a number of examples of where the local telephone company or the regional operating system has taken a particular interest in helping school districts and communities think about ways in which these technologies can be resources for learning and resources for professional development for economic development as well.

The trouble is, they are only examples, and the trouble is that, ultimately, we're going to have to, going back to the question about comprehensiveness and thinking this through in a really systematic way, we're going to have to say, "How do we go beyond the particular examples?"

I could make the same point about the cable industry. I think that the cable industry has been remarkably more responsive to educational needs, given the competition that they felt was coming from Chris Whittle and the Channel 1 programs, and also from the fear, I think that they had, that they were ultimately going to be reregulated.

So there are opportunities to do those kinds of business-school partnerships where the capacity that's already there can be utilized more for education. But I think that ultimately, quite honestly, there is a funding problem here. There really is. Technology does cost money, and technology costs don't go away, because there is the continual support that's needed.

And unlike business and industry, schools just don't have a way to easily build in the acquisition of new resources. They really don't. So we have to—I think we have to come up with some new ways to fund the technology, ultimately.

Mr. **Green**. Because most of the funding for schools is actually in personnel and actually in salaries and not in the hardware that, in business, we spend money on.

Ms. **Roberts**. Exactly. The other problem that schools have—and I didn't mean to be so hard on schools with regard to telephone lines.

Mr. **Green**. But it's true.

Ms. **Roberts**. The biggest problem is that the telephone costs are an unknown cost. You can't predict, if you just have an open line, what your costs are going to be. Long distance cost is an example.

Now, there have been a number of projects that have been developed that have very creative, fixed-cost kinds of options built into them, so, for example, classrooms can be on-line for a certain number of hours per month, and the school district knows in advance that this is going to cost them some fixed rate over the year, and they can build that into their budget. But we really have to think about this cost issue in a very long-term way.

Mr. **Green**. Thank you, Mr. Chairman.

Mr. **Zucker**. Mr. Congressman, I would like to respond to that earlier question, if I might, about the percentages. Mr. Kelley has a copy of the summary report for the SRI study, and on page 3 there is a table showing the distribution of the program funds. Also, there is a recent Congressional Research Service report for Congress on the Eisenhower study, and on page 4 it has a similar chart.

About two-thirds of the money that goes to a State gets allocated to the districts in that State, by formula. About one-quarter of the money that goes to the State is allocated competitively to higher education institutions.

Chairman **Kildee**. Thank you.

Mrs. Mink.

Mrs. **Mink**. Thank you, Mr. Chairman.

I certainly appreciated all of your comments and responses to the questions that have been asked by our colleagues.

The area of math and science is an extremely important area, and, when our respective school districts are scored by their constituents on how well they're doing, attention is always placed on the math scores and SATs and so forth. And the chagrin of communities that do not do well is often something that all of us in public office have to contend with.

While I know that the emphasis in the testimony today has been directed towards teachers that are already in place in schools, in school districts, I have always felt that that is something more or less in a remedial context, and that the greater attention, especially with the new requirements in technology and so forth coming on so strongly, in this field in particular, should be in teacher preparation.

What are we doing, Dr. Zucker, in our colleges of education, where our new teachers are coming out? Are they equipped to adequately fulfill the concepts that you've all expressed now as being so necessary to inculcate and instill in the teachers that are in the field?

Are we doing any better? How can we measure the entrant capacity of the new teachers coming on board now? Are they equipped? Are they skilled? Are they able to move into this field adequately?

Mr. **Zucker**. I can respond a little bit to that question, and then other members of the panel may be able to add more.

We found, in studying the Eisenhower Program, specifically, that there was not a great deal being done with those funds for preservice teacher education, and felt that States could creatively do more, even with small amounts of money.

For example, a State can call a conference rather cheaply and bring together the teacher education institutions within that State to talk with them about the NCTM standards, new emerging science standards, problems of technology in education, and what that means for their programs. This is not an expensive operation, and a few States have done that, but more States probably ought to.

Mrs. **Mink**. We talk so much about testing our students and assessing their competencies. What are we doing about testing our colleges of education?

Mr. **Zucker**. I know there are some States that are taking very active roles, but I hesitate to generalize, because I don't know all the States. Montana, for example, is making an effort to put technology labs into the universities so that future teachers will learn, using the same technology that they will then use once they enter the schools. But I doubt that that is common.

Mr. **Marx**. Well, there are—if I could join in. Many States now have teacher competency exams that they require for certification in their State. The Educational Testing Service, of course, for years has had the National Teachers Exam, and they are currently in the process of taking that exam and putting it on computers so that, I think, their new system will be available in about 3 years.

I think that it's still a moot question about whether that's going to be an improvement or not, so I really can't respond to that. But very many States now test teachers.

I'm not sanguine, by the way, that this is necessarily going to give us a better teaching force. I know that the competency tests that we now have in Michigan for all of our teachers don't really, in my mind, measure what's really important to measure for quality teachers.

But there is a lot of reform in teacher education programs across the country, and many universities that have teacher preparation programs are in the process of rethinking what they're doing and trying to modernize those curricula.

At the University of Michigan, I can give you an example of what we're doing with some of our elementary teacher preparation programs, and that might give you a sense of the flavor that many universities are exploring with.

We require for not all, but some of our elementary teacher education students—and it really depends on a host of structural issues I won't get into—that when they come into their program in their junior year, they study their basic science, physics, chemistry, and biology, at the same time they study their pedagogy. So, instead of learning about science quite separately from learning how to teach science, they do that together.

At the same time, every semester that they're taking these integrated courses, they're also working in classrooms with kids. So they get a chance to learn the theory, they get a chance to learn the practice, and this becomes a blended experience rather than a separate one, which is more characteristic of earlier teacher education programs.

That particular feature is a feature that many teacher education programs now are getting, so I think that we're going to be developing much more thoughtful teachers who have this kind of experience.

Now, in addition, through a gift from Hans and Wally Prechter in Michigan, we're developing interactive computer laboratories for our student teachers to work in, and so they'll be learning how to use fairly sophisticated interactive, multimedia materials in their learning as they become teachers, and they'll be able to use those materials, they'll be able to use those systems when they become teachers.

Now, we're special in a way, because we've gotten this gift to build this very, very nice interactive laboratory, but this, I think, is kind of a vision of what teacher education programs could be. Again, it will cost money to do that. Some States have more money than others, and these days, of course, higher education institutions are not receiving lots of increases in their funds.

But those are some ideas, and I think that there are some other places across the country that are doing very similar work.

Ms. STANCHINA. In the two universities that are affiliated with our project, they have revamped their colleges of education for great emphasis upon technology. They have computer labs; they have technology systems that they must be proficient upon graduation. Those universities also rely upon area schools for the development of professional development schools. That's what they call them and we call them.

Our two schools that are involved in our Lighthouse Education Enhancement Project focus on prospective teachers from those two higher education institutions in which those teachers, those prospective teachers, go to those buildings where the emphasis is upon technology and the use of technology throughout the day and in all aspects of teacher delivery.

And so those are just two examples, but I know that those kinds of things, as have been identified earlier, I think, are being redesigned.

Ms. **Roberts**. When we systematically looked at this question in the 1988, the Office of Technology Assessment study on use of computers in education, the results were very discouraging. We found that most teacher education institutions really did not give more than just lip service to use of technology and integrating that technology in instructional practice.

Now, we have a sense that things have really changed in a number of institutions for a variety of reasons, and we think it's important to go back and look at this issue again, because, again, we think that there is a new set of needs out there, and there is a new set of capabilities that could be examined.

But I would say that it really is important to understand that, even in most typical universities, the college of education is last in line for anything, much less technology. One of the things that I have been, in fact, very encouraged by is, at least, the interest of some of the major technology companies in teacher education. It's no secret that both IBM and Apple have really tried to find ways to support innovative uses of technology, but those projects are not uniform across the board.

And I think it's time to look at this very carefully, because we do have whole new cadres of teachers coming into our schools, and, you know, we don't want to continue to be playing catch-up.

Chairman **Kildee**. Thank you. Our next member is the gentleman who, in the last reauthorization, played the major role in upgrading the Eisenhower Program, and I hope that he will do the same thing in this reauthorization.

Mr. Sawyer.

Mr. **Sawyer**. Thank you, Mr. Chairman. I apologize for being late this morning. I had another speech to give across town, and it took some time to get here.

I'm particularly sorry I didn't have the chance to introduce Mary Jane Stanchina, whose work in our district has really gone a long way toward elevating the role that collaboration among districts, public-private, higher education, elementary and secondary, and across a variety of levels of governments.

The work that they have done to elevate the importance of that has been not only important in its own right for what it has accomplished, but has been exemplary for what can be done in overcoming some of the ancient jurisdictional walls that keep us apart.

I have an opening statement that I'm not going to share with you. I'm sure you will all be grateful for that. And I've got, actually a pile of questions here that are just a lot. And I don't want to do that, but I want to follow on with the kinds of questions that you were just being asked now.

One of the great struggles that our Chairman has led us through in the last 18 months has been with regard to the question of testing and whether or not that creates its own market forces for reform, or whether, as the National Council of Teachers of Mathematics have done, and that is to set up not only instruments, but an inventory of those skills and abilities that those instruments are designed to measure and move backward upstream to the point of discovering where we are and what we need to get to where we're going.

That notion of delivery is central to the achievement of any national goals, the validity and worth of national testing, if that's to be our future. It is central to that. It seems to me that one of the places that we have the opportunity to learn most about that pathway from where we are to where we need to be are the lessons that are being learned through Eisenhower.

I sympathize with what everybody here was saying. I know what Eisenhower is, Mr. Chairman, and an awful lot of the districts in my congressional district know about Eisenhower, and still, the vast majority of teachers have no idea of the role that it plays in, for example, the Lighthouse Project.

I'm interested in how the lessons that are learned through Eisenhower can be brought to bear in an organized way on those delivery standards, curriculum development, equipment needs, teacher training requirements, and so forth, that get us from here to there.

Mr. ZUCKER. Well, just quickly, I think that the Eisenhower Program plays a particular role in supporting efforts to change what's happening in schools, but cannot play all roles equally well. It is not primarily a program to develop curricula, for example, to purchase technology or lab equipment, to do many other functions. It is primarily a program that serves to provide professional development for teachers.

Some of these other things happen in conjunction with the professional development, but not——

Mr. SAWYER. Yes. Please don't misunderstand me. I do understand that.

Mr. ZUCKER. Okay.

Mr. SAWYER. It is a question of how the lessons in teacher development can be brought to bear on the full range of activities that are a part of delivery standards that go along with this project.

Mr. ZUCKER. Okay. I did want to establish that, because it's important in showing that the program plays a role, but that there are other roles that are also important beyond the Eisenhower Program.

Mr. MARX. In a general sense, I think one of the important lessons that we've learned through educational research and improvement efforts over the last 2½ or three decades since, I think, the country has really gotten into, at least in a concerted way, trying to bend our energies towards these kinds of improvements.

One of them is that change efforts have to be sustained over a long period and that the planning horizon should not be next summer. I think that any proposal to any funding agency that sounds like they think that they can get something done in a month or in a summer or even a year should not be funded.

The planning horizon has to be long, the vision has to be long, and we have to sustain our commitment and our energy. When I say, "we," I mean academics, people in districts, policy people, elected officials have to be willing to stick it out over a long period of time—5, 10, 15, 20 years, and continually work on a fairly simple song. Now, what that song might be, we're still trying to shape that up. But every time we change the song, change the tune, we take a step back. So I think long-term, sustained commitment to working on improving schools and schooling is the big story. Now, that sounds like a simple thing to say, almost a commonplace, but it's an important one.

Mr. SAWYER. It does not sound simple at all. It sounds like one of the toughest jobs that exists in education all across the board. It is really central to what we need to do. We are by our governance, predating the Constitution, disparate, and we do not have the tools to bring—we barely have the tools to distribute centralized resources nationally. We don't have very good tools for getting returns from those, and that's what I'm asking about.

Mr. MARX. I think one more thing, and that is that it sometimes—I don't know how one gets control of all these different things, but sometimes programs that are working very well, they take one degree of a turn off their course, and they change dramatically. Let me give you an example.

We're now funded—that teacher preparation program I was just describing to Mrs. Mink is funded partially by the National Science Foundation through their Teacher Preparation Division. The teacher preparation grants in NSF are being rolled into their undergraduate preparation programs. That means that we in education now have to compete with the physics department, the computer science department, and these other departments for scarce funds for innovative work in undergraduate education. My expectation is that the likelihood of getting the same level of funding is going to be remote.

So I think some of the innovations, even, that we're doing on a small scale at Michigan, it's going to be hard for me to sustain that in my department without that little bit of extra funding.

Ms. STANCHINA. In a parallel fashion, and this is perhaps more subjective, but I think the issue of school management and the way we offer services has something to do with your question, too.

If we cannot get away from top-down management, and if we cannot become more progressive and more assertive in providing management through quality management efforts and more collegial activities, I have concerns that—what we have done in our compact, because it has been collegial in nature, teachers own that. They own the fact that they need assistance and that they design these programs, and they want to participate. And they participate voluntarily.

Now, that's very different from someone saying, "You will do this." And so I think that issue of school management becomes extremely important. About once or twice a year, one of my superintendents says, "Now, how much money do we get for Eisenhower for my school district?" And so when I tell him, he says, "Well, I don't know. I just—instead of pooling that money, I think I might just want to keep that, because we could do X and X."

And so then I have to have a little go-to-the-river meeting, so to speak, with that superintendent, and say, "You might just do that, but you're only going to get this, versus you get this amount over here by maintaining what we have." So now we have a configuration which allows for both. They have some moneys for some district needs, but also moneys for the good of the order. And so I still have to go through that with people, because that becomes a very territorial issue.

But I think that whole issue, on the other hand, he is very good about allowing his teachers and enabling his teachers to have that ownership of those programs and to walk into his office and say, "We're not charting the right course for science and for mathematics. We need to be moving in this direction." And, nine times out of ten, they're correct. And so I think that is equally significant to some type of long-range systemic change.

Ms. **Roberts**. If I could just add one more point, you could say the same things about increasing more effective use of technology in our schools. It isn't a short-term investment; it's a long-term investment. And it really strikes me in this discussion today that we've known this for a long time, but we keep behaving as if we can find the silver bullet and just fix the problem.

Maybe we're at a different place in time in this country, and we're really willing to think more comprehensively or more systemically, or whatever it takes, but I think Congress has to—I'm very reluctant to say this, but I think it's very important. Congress has to think long-term, also.

Mr. **Sawyer**. A real quick question, Mr. Chairman, if I might.

Would a national advisory committee be helpful? One that would draw from across the Nation? I'm not talking about getting a bunch of people around a table from this national community within the boundaries of this city. I'm talking about a genuinely national advisory committee.

Ms. **Stanchina**. For what?

Mr. **Sawyer**. For purposes of coordination, of gathering back the lessons that have been learned for making application. We sit here and hunger for understanding as we try to suggest that there is more to elevating our expectations than creating tests. There is more to it than that.

It does have a longer horizon. It does require continuous sustained effort, and it requires that effort across a number of disciplines that may be parallel, but are not the same thing, as each of you has suggested. How best do we bring that activity together and sustain it for a longer period of time?

Mr. **Marx**. Well, in terms of getting smarter about all of this, I think that there have been some, through the professional associations and the research associations. I'm thinking of the American Association of Colleges of Teacher Education, the Association for Teacher Educators, the American Educational Research Association.

All these organizations have very extensive meetings and publications that bring these things together. In fact, in the last 4 or 5 years, there have been major pieces published on the Handbook of Research on Teaching, the Handbook of Research on Curriculum, the Handbook of Research on Teacher Education.

These are stellar volumes, and they're being used quite a bit by people across the country in program design and in designing new efforts at school improvement. So, as in any field, there is a professional literature that's growing and useful.

Mr. **Sawyer**. Would that it were reflected in the decisions that are made in places like this. I mean, that's the problem. It is not the absence of work. It is so diffuse that we have difficulty gathering the benefits from all that we have learned.

Thank you, Mr. Chairman.

Chairman **Kildee**. Thank you.

Ms. Woolsey.

Ms. **Woolsey**. Thank you, Mr. Chairman. I, too, am sorry that I was late. I just have two questions, and I hope you haven't already covered them. If you have, please accept my apology.

It occurred to me walking over here that the challenge is pretty great for this body, the House of Representatives. We work in a very low-tech environment. We don't even have E-mail on our computers, so, it's going to be a real challenge to charter the science and math and technology future for our children when we aren't even particularly up to date in our own facilities.

My two questions. One: Are you looking at proposals and programs that will bring computers to the administrative function for teachers, for their communication with the administration, to save time and communicate?

Ms. **Stanchina**. I'll speak to that, coming from a local level. Yes, we have that as a goal, however, the issue is funding.

Ms. **Woolsey**. Yes.

Ms. **Stanchina**. We do not have—in our six districts, we do not have funding necessary to obtain that type of technology, but it is a goal that we have, and we have teacher requests for that. We have—but the funding just is not available, either locally or from the State level.

Ms. **Woolsey**. Well, I would think it would be valuable to take a good, hard look at what we're wasting by not doing this, because money is going down the drain, the same as it is here. Anybody else want to answer to that?

Ms. **Roberts**. Well, in the studies of technology that we have completed for Congress, we have looked at this issue only peripherally. We've really focused, quite frankly, mostly on the instructional impacts of the technology.

But, anecdotally, we have heard and seen districts that have begun to recognize that an investment in technology to reduce the administrative burdens around teaching and classroom management is an investment in productivity and a cost-saving opportunity.

But it's not simply done, and, in fact, it is costly, and it requires rethinking the way in which information gets passed back and forth. It requires support, again, for the teachers. Just putting a computer on a teacher's desk is not going to do it.

To the credit of the professional teacher associations, both the AFT and the NEA, for a number of years, now, they have talked about the need to help teachers use technology, not just for instruction, but also for management and for administration. So, I think this is an important area to pursue even further.

Ms. **Woolsey**. It's a model for the students.

Ms. **Roberts**. I have to tell you, in perspective, we're now doing a study on adult literacy and improving the level of adult literacy across the Nation. And I have to tell you that the K-12 schools are so much better off, or have so much more in the way of resources and infrastructure to support change than this very fragmented, diverse community of adult education providers around the country.

So I think there are, really, very opportune moments here to think about the technologies in a strategic way for teaching, for learning, and for more efficient delivery of services and resources. And I think Congress can think about that as well as they think about the role of technology, if it's in science and math education or any other area.

Ms. **Woolsey**. Thank you.

Ms. **Stanchina**. I think another issue about that particular item, however, and we have talked about that earlier this morning, is that we have many teachers who are not familiar with the technology, and they must have opportunities to be retrained and to be trained and to be familiar enough with that technology that it is an inherent part of their daily operation.

We are not at that level yet. We are aiming to be there, but I think that's as important as the actual piece of equipment that we might purchase.

Ms. **Woolsey**. Well, I think they go together.

Ms. **Stanchina**. Yes, they have to.

Ms. **Woolsey**. One without the other is useless.

Ms. **Stanchina**. But sometimes, I think, the emphasis has a tendency to be on the equipment.

Ms. **Woolsey**. Right.

Ms. **Stanchina**. Without the remembering that many of these teachers are not technologically literate.

Ms. **Woolsey**. And that's what I'm thinking about here in the House—training us so that we can use some efficient equipment.

I'm also really interested in encouraging young women to become involved in math and science careers because that's a whole part of our workforce that we have been ignoring. How can the Eisenhower Program encourage more young women to get involved?

Mr. **Zucker**. Well, some of the approaches to instruction in science and mathematics that are being embraced by national associations like the National Council of Teachers of Mathematics, American Association for the Advancement of Science, seem to be appealing especially, I think, to women and minorities, although they are really being recommended for all students—more hands-on, more applications.

There is some research, I believe, to show that women and girls are interested in applying mathematics, let's say, to real-world problems, more than in just the abstractions, and this is something that's being recommended now for all classrooms.

Collaborative learning would be another example. This is something that has been endorsed to increase the amount of time students spend working with one another, instead of just by themselves. And this is something, also, that I think will be appealing to students who have been underrepresented in math and science, including girls.

Ms. **Stanchina**. We have focused some moneys on some of our female math and science teachers as role models and for setting up internships and mentorships for those female teachers to work with business and industries where they have, let's say, female scientists, et cetera.

And then we have also developed some programming, not a lot, but some, in the area of those teachers and those scientists then working with females, even at the middle school level, sometimes at the upper elementary level, to at least begin to focus on what the possibilities might be.

We have not yet undertaken any programming to work on highlighting teacher attitudes within classrooms and activities of that nature, but we have at least addressed that. But that's a very difficult issue to come to grips with in terms of what really does work, in terms of helping young women understand that those possibilities are for them, as well.

Ms. **Woolsey**. Well, it's essential if we're going to become a competitive factor in the global market. We're presently leaving out a great number of our workforce. I would like to help you think through that in any way I can, because I think it's necessary.

Ms. **Roberts**. Well, I can't speak specifically to the Eisenhower Program, but there have been a number of efforts where the focus has been on bringing role models to women and minorities, to students to give them that sense that they can—that this is an area that they should be interested in, and this is an area they can effectively compete in.

I just, for example, came back from a program in Connecticut that provides a series of—oh, I think it's six or seven a year—satellite electronic field trips for students around the country, and this year they have focused principally on women in science.

I mean, just think about it. How many opportunities do students have to talk to women who are doing substantive, important things in the area of science? And this is just one example.

I think you have to look at all levels and understand what it is that can bring a greater diversity of learners into this area, and I really do believe that if you look at what has happened, just with interest in computers in our schools. When we first had early computer projects, and you walked into a computer classroom, 90 percent of the students were male and 10 percent were female.

You don't see that anymore, and I think it's largely because of the whole range of tools that the technologies provide us, tools for communication, tools for writing, tools for art, tools for music, tools for science. So, you understand what I'm saying, that the technology is not gender-specific, and I think that our applications are increasingly more diverse and have broader appeal.

Ms. **Woolsey**. But we need to encourage the young women to use those tools for science and math and not for home economics so much.

Mr. **Marx**. Just a little story about how difficult this is. The role models are important because they provide us with a sense of what is possible, but there's a long path before you can get from what is possible to getting to the end of it.

I was working in a classroom with, I think, a very good teacher. The teacher was doing some collaborative work, so that means that the kids were broken up into small groups of four or five, and they were working on a science project. They were designing rain collectors to collect rainwater so they could measure pH for acid rain tests.

There was a debate in one of these little groups. There were two girls and one boy in this group, and they were having a debate about how they were going to design this thing and about what the issues were in the design. The boy was wrong. He had the wrong ideas. The girls had the right ideas.

The teacher walked up to—quite unknowing of what was going on. The teacher walked up to the group and asked them what was happening, and the boy, knowing that he was wrong, gave the idea that the girls had invented. So he had appropriated the idea. It became his idea, and the teacher recognized it as his, not the girls'.

We had it on videotape, and we all fell off our chairs when we saw it. It takes a long time. This is an enlightened teacher, but it's just so easy to fall into habits. It's another plea for my request for sticking to these reform efforts over a long, long haul.

Ms. **Woolsey**. Good, thank you.

Chairman **Kildee**. Thank you, Ms. Woolsey.

This afternoon, I will be meeting with Secretary of Education Riley, and we will be talking about standards in testing. I've been talking about standards in testing for about the last 4 years, I think, with other Secretaries of Education and other Presidents, but we're going to have a rather important meeting, today, on that.

It just occurred to me, what role can technology play in the development, the use, and the evaluation of new forms of assessment?

Mr. **Marx**. Well, I think that technology can play a major role to get us away from the simple-minded multiple-choice tests as being the measure of success.

In particular, as we get much better at using multimedia documents, so that kids can draw graphics, they can use—there are devices now that kids can, in science, collect information using what are called microcomputer-based laboratories, and collect all sorts of information from the physical environment, get it into computer right away, manipulate it. There are simulation programs. There are lots of different programs of constructive tools that can be used.

The one thing about these computers, within 2 or 3 years, we'll be able to have very simple CD-ROM devices for computers, where we'll be able to easily store information on CD-ROMs. You can get on one or two CD-ROMs the entire Oxford English Dictionary. They are huge capacities. So kids could have their own CD-ROMs. They can put all their documents on these things.

Now, the question is, how is the teacher or an assessor going to use them? I think that the technology is much easier to figure out than how we're going to use the information. It's so much easier to go to easy multiple-choice tests. We have a very robust technology to do that. We don't have a robust approach to thinking about how to use these devices for more innovative approaches.

One of the buzzwords, now, in education is the use of portfolios, kids putting together their material over a long period of time. A computer is a good place to keep a lot of that portfolio information and share the portfolio information, do searches through it. We just need to get smarter about how we're going to use those devices in this creative way.

But I think the technology has a lot of promise, and there are lots of programs around the country that are exploring how to do this. One of our faculty members, with funding from the National Science Foundation, is looking at how to use computer-mediated testing programs to do alternative assessments in large scale assessments in science, and she is making a lot of progress in her work.

So I think we have a lot of exciting work going on, and I think the technology has that promise.

Ms. **Roberts**. I assume, Chairman Kildee, you're familiar with OTA's testing report.

Chairman **Kildee**. Yes.

Ms. **Roberts**. I know we helped you a great deal last year, but we pointed out the very things that Professor Marx has just pointed to. I would add that if we think it's really important to test in different ways, then we have to make the incentives different, also, for the schools.

It is so striking to me that, for example, in Chapter 1 programs, there has been such an emphasis on drill and practice of basic skills. And I think to make this—to understand why this is the case and why technology, which has so much capability, has been used in so many of these programs as a drill and practice machine, is to go back and ask, on what measures were they basing, or what measures were they being evaluated as programs?

And quite frankly, the answer was, have you raised the kids' test scores from one level to another? And what were the test scores based on? They were based on knowledge of discrete facts and drills, all of which perpetuated this kind of behavior.

So I think that if you really want to see a change in the way in which we test our kids, we have to change the rewards for performance, and we have to make clear what kind of performance we would like to see, and then we have to invest.

We do have to invest, I think, in some research and development, because there's a lot of controversy around performance-based assessment, around portfolios. How do we make them truly objective? How do we use the testing technology, if you will, in more effective ways?

Ms. **Stanchina**. I would think, from a local-level perspective, that when thinking about assessment, looking at the NCTM standards, where much emphasis is placed on designing different types of assessment measures, as we're going through that process, we have teachers that can't go beyond multiple choice or pick a winner, because they don't know anything else.

And so it's just as in the use of technology, we're going to have to have some long-term teacher training on assessment and on evaluation measures, other than what currently is being offered and is being used. Again, I think there has to be some type of consistency in terms of looking at the evaluation and assessment measures.

If we're going to, let's say, in math in science, talk about that, then we look at NCTM or we look at what the science people are in the process of developing right now.

Then, how do you deliver that? Well, if we're going to talk about technology, then there has to be some, I think, consistency among those areas, or we're going to revert to, "Well, it's here today and it's gone tomorrow. Next year, it's going to be something else. So, as a teacher, I'm not going to get excited about this, because I've seen 55 other things come and go, and nothing ever stays."

And so my plea would be that we move away from that hodgepodge of operating, and we move towards something that is more long-term, more consistent, and certainly uses the technology which we know is here.

Mr. **Zucker**. I have been codirector of a project at SRI over the last several years to develop a new assessment methodology using video technology.

This is not a project in the realm that some of my colleagues have been speaking about, which is a large-scale, high-stakes assessment. This is, rather, an assessment at the classroom level, largely for the use of the classroom teacher and the students themselves.

We focus on assessing the beliefs and attitudes of students in middle school mathematics. We have documented, for example, that there are large numbers of students who have serious misconceptions about problem-solving. They believe that for every math problem there is one method that you're supposed to use; that for every math problem there is exactly one answer that you're supposed to get.

They have many misconceptions which are brought to public examination by the video and print materials that we have developed and then become the basis for a classroom discussion in the context of solving an actual nonroutine and interesting problem, so that they talk in the classroom about whether there is really one method or more than one method to approach this.

So I think there is potential for technology in various ways to aid the teacher in assessment.

Chairman **Kildee**. This method you referred to, can that be used—that type of assessment, can that be used to improve the quality of teaching, the methods of presentation in the classroom?

Mr. **Zucker**. Well, we hope so. This is actually an instructional tool. The series of episodes that we have developed is called Becoming Successful Problem-Solvers, and it is available for instruction in middle school math classrooms.

Because there are many math classrooms in which only routine problems are addressed, only problems involving arithmetic, this creates a departure, instructionally, for many teachers. I mean, they're addressing a series of topics that they wouldn't normally address.

Chairman **Kildee**. Dr. Marx.

Mr. **Marx**. Teaching is as much a mental act as it is an interactive activity with kids. Thinking about teaching, thinking about what you're going to teach, how you're going to teach it, what it is you want to teach is all a big part of being a teacher.

One of the devices we've build is called Instruction By Design. This is a design tool that our undergraduates use, that I have mentioned earlier. Let me just give you a minute or two of what people actually do when they use this design tool. By the way, when we've shown this to experienced and expert teachers, they all go nuts about this. They just love this tool.

What happens is they begin—the user begins by thinking about what it is he or she wants to teach. Let's say it's going to be a unit on acid rain. What are the big ideas in acid rain? Well, there's the idea of an acid. There is an idea of precipitation and the water cycle. Then there is the idea about a watershed, because the water has to get down and get collected, and so on. So there are lots of scientific ideas that have to be taught in it.

So the teacher begins by sitting down at the computer and drawing a picture. It's actually a three-dimensional picture. It's two-dimensional, and then the teacher can have cards that go back into the third dimension. So the teacher actually maps out his or her conception of what the idea is.

Then after they get through that math, they show that to the professors, and the professors then get a sense of where their misconceptions, the teachers' misconceptions of the scientific content might be, and so now you have an assessment. It doesn't look like an assessment. It looks more like an activity, but it turns out to be an assessment for the instructor in the class.

And after that, the student teacher has to think about, how am I going to teach this? So, attached to each of those ideas, then, become activities that you use, as a teacher, to help the kids learn about what the idea is.

When you design those activities, sit at the keyboard to design the activities, if you have a question, you push a button on this computer, and up comes a series of questions that Professor Marx or Professor Soloway or one of the professors has said.

Have you thought about how you're going to group the kids, making sure that the boys and the girls all learn the idea in the same way? Oh, I didn't think about that. So now I have to go back—we call these things considerations. Have you considered? And they now have to redesign their activity as a function of the consideration.

So now, as a teacher, I have their content and their understanding of it, and now I have the way they have designed the instruction and how they've done that, and I've brought in things like gender equity. I've brought in interactive teaching and all sorts of things in my assessment of the teacher. Only the last part of it is me watching that student teacher work with the kids.

I already know a great deal about that student teacher from what I've seen from the interaction of the computer program. I think this is a real example of how technology can be used in a much more creative way to get a sense of what people are thinking about, how they're thinking, and how that relates to how they work with people.

Chairman **Kildee**. Very good.

Lynn, do you have any other questions?

I really appreciate your testimony this morning. It has been excellent. We are really working our way through. Congress wants to act in a very informed, intelligent, and meaningful way that will help, that will change and improve education in this country, and you have been extremely helpful on this.

I will take immediately some of the ideas that I've learned today to my meeting with Secretary Riley this afternoon, and it should be a long and, hopefully, a fruitful meeting. You've certainly prepared well. Your backgrounds are great. You've brought your thoughts together very clearly for this committee, and we deeply appreciate that.

We want to stay in touch with you as we work our way through this reauthorization in committee, so we may be contacting you. Mr. Kelley or Ms. Wilhelm may be contacting you for some further ideas on this.

I want to personally, also, commend you for your commitment to education. I tell people that in real life I was a schoolteacher. I taught for 10 years, and I've taken this long 29-year sabbatical, now, in politics and still feel I'm a teacher, and I really feel it an honor and a privilege to come in contact with people like yourselves.

We will keep the meeting and the record open for 2 additional weeks for inclusion of additional material.

And with that, we thank you again, and we'll stand adjourned.

[Whereupon, at 12:20 p.m., the hearing was adjourned subject to the call of the Chair.]

HEARING ON H.R. 6: COORDINATED SERVICES

WEDNESDAY, MARCH 31, 1993

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:05 a.m., Room 2175, Rayburn House Office Building, Hon. Dale Kildee, Chairman, presiding.

Members present: Representatives Kildee, Sawyer, Reed, Roemer, Becerra, Green, Woolsey, Payne, Romero-Barcelo, Goodling, Gunderson, McKeon, Molinari, Cunningham, Roukema, and Boehner.

Staff present: Susan Wilhelm, staff director; Lynn Selmser, professional staff member; Margaret Kajeckas, legislative associate; Jeff McFarland, legislative counsel; Jack Jennings, education counsel; June Harris, legislative specialist; Jane Baird, education counsel; and Tom Kelley, legislative associate.

Chairman Kildee. Being a former schoolteacher, I generally try to start on time, so we will begin at this point.

The Subcommittee on Elementary, Secondary, and Vocational Education convenes today to hear testimony concerning the need to coordinate education, health, and social services as a means of better serving our young people.

In the course of our hearings on the reauthorization of the Elementary and Secondary Education Act, the subcommittee has been urged by numerous witnesses, including leaders in education and business alike, to expand the role of the Federal Government in promoting coordinated services. These leaders believe that we must ensure that children's basic physical and emotional needs are met before they can benefit from the educational opportunities offered in the classroom.

As a former teacher and past chairman of the subcommittee with jurisdiction over Head Start, child care, juvenile justice and runaway youth, I, too, am sensitive to the unique needs of today's children. When I first became Chairman of this subcommittee, I held hearings on what we call the state of education. They specifically focused on the conditions beyond the schoolyard fence that influenced a child's ability to achieve in the classroom.

I am looking forward to hearing today's witnesses describe some proposals for addressing those needs. I am also looking forward to hearing about programs that are operating right now, like the Smart Start Program in my hometown of Flint, Michigan.

Before we hear today's witnesses, I would like to acknowledge my good friend, Bill Goodling, the ranking Republican member of this subcommittee and also the ranking Republican member of the full committee.

Mr. GOODLING. Thank you, Mr. Chairman. Since you just mentioned Smart Start, I read that. It sounds very much to me like it's Even Start with maybe a Michigan title to it. Could that have been copied from Even Start?

Chairman KILDEE. You have given us many good ideas around here.

Mr. GOODLING. I want to thank you for holding this hearing on an issue which I believe is very important to the future success of education in our country. As former educators, we both know that what happens to a child outside of the school setting can have an impact on their ability to learn.

As part of our efforts to reform our current system of education, we must also recognize these additional factors and address them. I do not believe we should take away from schools their primary responsibility of educating children. I believe we can involve them in efforts to coordinate health and social services for children and their families.

Yesterday, I introduced legislation addressing this issue. It is my hope that we can all work together on this issue and provide schools with the assistance they require to develop coordination of programs to meet the needs of the school community. And as I will say each hearing we have, I don't want anyone telling me Head Start is great and I don't want anyone telling me Chapter 1 is great, neither are good enough. They have to be a darn sight better, and that's what this whole reauthorization process is all about, I hope.

Thank you, Mr. Chairman.

Chairman KILDEE. Alright. At that point, I think we will ask the Honorable Scotty Baesler from the great State of Kentucky to come to the table. I believe Mrs. Lowey is in the hall—and we will wait for a moment here—a former member of this subcommittee.

Good morning. Good to see you.

Mrs. LOWEY. Good morning. What a pleasure.

Mr. GOODLING. I think we should send her to detention for being late.

Mrs. LOWEY. I was waiting outside for you all to get started.

Chairman KILDEE. I welcome both of you here this morning, and we will start with Nita Lowey, the sponsor of the Link-up for Learning Act. She was very active in that concept when we reported the bill out, last year I believe it was, under a previous president, and we incorporated many of her ideas into that bill. We look forward to your testimony this morning.

STATEMENTS OF HON. NITA LOWEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK; HON. SCOTTY BAESLER FROM THE STATE OF KENTUCKY; AND HON. ROBERT E. ANDREWS FROM THE STATE OF NEW JERSEY

Mrs. **Lowey**. Well, thank you very much, and I want to thank the Chairman and I also want to thank the ranking member, Mr. Goodling.

It is such a pleasure for me to be here with you today. As you know, it was an honor and a privilege for me to serve with you on the committee, and I do believe that we were working together and we continue to work together at a time when education is number one on everyone's agenda.

We all understand that education is the key. It's key to our competitiveness, it's key to our strength as a country. So I do appreciate the opportunity to testify before you, and I look forward to continuing to work with you. We can form a really great partnership between the Education and Labor Committee and the Appropriations Committee, and I hope to work with you to get this enacted into law.

Chairman **Kildee**. On that point, I will say that the Budget Committee just wrapped up its work yesterday, late last night, and we were able to get to the Appropriations Committee a little extra money than what the Senate had in mind. So, hopefully, you will use that very wisely when it comes down.

Mrs. **Lowey**. Well, terrific. And now we will work on the Appropriations Committee——

Chairman **Kildee**. That's right.

Mrs. **Lowey**.[continuing] to ensure that education reform will be a reality in this country. I know that both veterans and newcomers share our commitment to reform, and we know that we can't afford to do anything less. So I thank you for this opportunity, Mr. Chairman.

We know that the economic prospects of our Nation are directly tied to the educational achievement of our children, and in order to improve our standard of living, we must give our communities the tools they need to raise student performance. If we hope to succeed, we can't afford to allow so many children to fail.

Many times what we have seen during the hours of testimony we received last year, that many students fail in school not necessarily because the teacher isn't teaching or the children aren't trying to pay attention, but there are so many other reasons that they are not able to learn. We find that all the problems of our society converge upon our school system. Then we say to the school system, "Do something about it." That was the framework in which we developed the Link-up for Learning bill.

We know that the current delivery system for social services is fragmented, ineffective, over-regulated, and duplicative. We need to improve the delivery of these services so that our at-risk youths will be able to learn effectively and become productive members of our society. It's not enough to say they are not learning; we really have to direct our attention as to why they are not learning.

Around the Nation, communities are not really waiting for us to pass this legislation. They are already experimenting, and what we want to do is replicate what is really good out there, one-stop shopping for key social services in schools, community centers, or public housing sites.

By linking together our Nation's families, schools and social service agencies, we can provide coordinated and effective social services for America's youth and significantly enhance their ability to learn in school.

School personnel and other support service providers often lack the knowledge of an access to available services for at-risk students and their families. Providers are constrained by bureaucratic obstacles and have few resources or incentives to coordinate services for these youth. One-stop shopping can provide the means and the incentives to end this fragmentation of critical services.

The Link-up for Learning Act provides resources to bring together our Nation's families and schools and community social service agencies in an effort to provide overall coordination of services for at-risk youth. By uniting the parents, the educators, and the social service providers in addressing these problems in a comprehensive fashion, we can make significant progress in improving educational programs for these children.

The other factor that is very important to all of us in times of tight budgets, we can ensure that the billions of dollars that are invested in elementary and secondary education are not undermined by shortcomings in the environments in which children are raised.

The Link-up for Learning Act calls for the establishment of a grant program in the Department of Education to encourage this coordinated approach. Local school districts, collaborating with a public service agency or a consortium of agencies, will be eligible to receive grants under this program so long as the local school district is also eligible to receive Chapter 1 funds for disadvantaged students.

Participating school districts will be able to select any eligible school, grade level or program area, for the establishment of coordinated educational support services. Local education agencies receiving grants under this Act may use the funds for coordinating, expanding, and improving a variety of school-based or community-based services from child nutrition to health education, screening and referrals, to counseling and substance abuse prevention, to child care and family literacy.

In addition, funds may be used to develop a coordinated services program for at-risk youth to increase their access to community-based support services such as foster care, child abuse services, recreation, juvenile delinquency prevention, job training and placement, and other appropriate services. The school district can use these funds to facilitate interagency collaboration, coordinating case management and train staff in the participating agencies.

Special consideration will be afforded to school districts which have a particularly high proportion of at-risk students, and also to achieving geographical distribution of awards.

Finally, the bill creates a Federal interagency task force to facilitate interagency collaboration at the Federal, State and local levels, and it directs the Secretary of Education to conduct a study of funded projects and to make recommendations to Congress to improve the coordination of educational support services.

The bill authorizes $250 million for Link-up for Learning grants in fiscal year 1994 and such sums as are necessary in fiscal year 1995, 1996, 1997, 1998, and 1999. As you know, I introduced similar legislation in the 102d Congress. I am going to enter the rest of my statement in the record.

I am very enthusiastic about this bill. I have seen it work, Mr. Chairman, in some parts of my community. I have talked to people who have run these programs in other parts of our country. I really think it's necessary. We have got to figure out and implement plans to make sure our children are learning, because we cannot have excuses anymore. We have got to get to the root of it.

I do believe that putting in place these comprehensive services, these connections, redefining our schools—we have to rethink what our schools are doing in light of the problems out there. I do believe that Link-up for Learning is a very important component. I just can't tell you how delighted I am to work with the veterans of the committee, the new members of the committee that I know are committed to this proposal.

As I look around, I just know that we are going to be successful in getting this passed into law and getting the resources to implement it. We just can't wait any longer.

Thank you very much, Mr. Chairman.

[The prepared statement of Hon. Nita M. Lowey follows:]

STATEMENT OF HON. NITA M. LOWEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

I want to thank the Chairman, Mr. Kildee, and the ranking member, Mr. Goodling, for providing me this opportunity to appear before you this morning to discuss the importance of coordinating education with vital social services.

It is indeed a pleasure to return to this subcommittee, where I spent many memorable hours with my colleagues working to revitalize our education system. I am enthusiastic about continuing to work with members of this distinguished panel—both veterans and newcomers alike—to enact landmark changes to Federal policies governing elementary and secondary education. As a new member of the Appropriations Committee, I look forward to collaborating with my colleagues on this panel to secure the funding necessary to carry out education reform in this country.

Mr. Chairman, I believe the opportunity for far-reaching change in education is real, in part because the risks of doing nothing have become increasingly clear. The economic prospects of our Nation are directly tied to the educational achievement of our children. In order to improve our standard of living, we must give our communities the tools they need to raise student performance. If we hope to succeed as a Nation, we can no longer afford to allow so many of our young people to fail at school.

Many times, when students fail in school, it is because their basic social service needs are not being met. Large numbers of children in America are in desperate need of help with problems such as poverty, inadequate nutrition or health care, drug or alcohol abuse, and child abuse or neglect. Unless their vital needs are met, these students will continue to fail in alarming numbers.

The current delivery system for social services is fragmented, ineffective, overregulated, and duplicative. We need to improve the delivery of these services so that our at-risk youth will be able to learn effectively and become productive members of society.

Fortunately, an answer is at hand. Around the Nation, communities are successfully experimenting with "one-stop shopping" for key social services in schools, community centers, or public housing sites. By linking together our Nation's families, schools and social service agencies, we can provide coordinated and effective social services for America's youth, and significantly enhance their ability to succeed in school.

School personnel and other support service providers often lack knowledge of and access to available services for at-risk students and their families. Providers are constrained by bureaucratic obstacles and have few resources or incentives to coordinate services for these youth. One-stop shopping can provide the means and incentives to end the fragmentation of these critical social service programs.

The Link-Up-For-Learning Act provides resources to bring together our Nation's families with schools and community social service agencies in an effort to provide overall coordination of services for at-risk youth.

By uniting parents, educators, and social service providers in addressing these problems in a comprehensive fashion, we can make significant progress in improving educational programs for these children. We can also better ensure that the billions of dollars we invest in elementary and secondary education are not undermined by shortcomings in the environments in which children are raised.

The Link-Up-For-Learning Act calls for the establishment of a grant program in the Department of Education to encourage a coordinated approach to the provision of educational support services for at-risk youth.

Local school districts collaborating with a public social service agency or a consortium of agencies will be eligible to receive grants under this program, so long as the local school district is also eligible to receive Chapter 1 funds for disadvantaged students. Participating school districts will be able to select any eligible school, grade level, or program area for the establishment of coordinated educational support services for at-risk youth.

Local education agencies receiving grants under this Act may use the funds for coordinating, expanding, and improving a variety of school-based or community-based services; from child nutrition; to health education, screening, and referrals; to counseling ans substance abuse prevention; to child care and family literacy.

In addition, funds may be used to develop a coordinated services program for at-risk youth to increase their access to community-based support services, such as: Foster care; child abuse services; recreation; juvenile delinquency prevention; job training and placement; and other appropriate services.

School districts may also use grant funds to facilitate interagency collaboration, coordinate case management, and train staff in the participating agencies. Special consideration will be afforded to school districts which have a particularly high proportion of at-risk students, and to achieving geographical distribution of awards.

Finally, the bill creates a Federal interagency task force to facilitate interagency collaboration at the Federal, State and local levels, and it directs the Secretary of Education to conduct a study of funded projects and to make recommendations to Congress to improve the coordination of educational support services.

The bill authorizes $250 million for Link-Up-For-Learning grants in fiscal year 1994, and such sums as are necessary in fiscal years 1995, 1996, 1997, 1998, and 1999.

During the 102d Congress, I introduced very similar legislation in order to call attention to the desperate need for improved coordination in the provision of services for at-risk youth. More than 140 members of Congress from both parties cosponsored that bill.

Thanks to the leadership of this committee which held a series of hearings on the problems facing American education, it became very evident that enhanced coordination of education with health and social services is one of the most effective tools of school reform available today. In the wake of these hearings, the full House of Representatives passed comprehensive school reform legislation that sought to provide funds to local school districts in order to assist them in conducting this essential reform activity.

Unfortunately, the reform legislation did not meet with final approval from Congress prior to the end of the legislative session in 1992. However, throughout the process, there was strong agreement from most education leaders in the House and the Senate that this concept would be on the top of the legislative agenda during the 103d Congress, as we move toward consideration of legislation to support school reform and to reauthorize the extensive programs of the Elementary and Secondary Education Act.

The need to educate at-risk youth is among the most important issues facing education today. The concept embodied in the Link-Up-For-Learning Act will help dramatically improve educational success of at-risk students. This, in turn, will reap benefits for our entire society in increased productivity, enhanced competitiveness, and reduced spending on social services.

I want to recognize the excellent leadership of a number of members of this committee who I know are working very hard to advance this legislation, including Ms. Woolsey, Mrs. Morella, and Mr. Andrews. I appreciate the hard work you are doing.

Mr. Chairman, thank you again for this opportunity to testify and I welcome any questions which you may have.

Chairman **Kildee**. Thank you very much. While we miss you on this committee, I am glad to see you take your knowledge and your enthusiasm to the Appropriations Committee, with whom we have to work very, very closely to get the funding for our bills here.

We have many new members on this committee. I will mention one particularly who shares both your knowledge and your enthusiasm for this, and that is, Lynn Woolsey from California. She has been really a stalwart in trying to advance this cause on the committee also.

Mrs. **Lowey**. Well, it's good to know, because we can spread Link-up for Learning from the West Coast to the East Coast, and the East Coast to the West Coast. Hopefully, we can really have an impact on—and North and South, is that what you were go going to say?

Mr. **Andrews**. Newark, New Jersey.

Mrs. **Lowey**. Newark, New Jersey. We have another stalwart here. No, I am delighted.

Chairman **Kildee**. Good.

I think we will go now to the former Mayor of Lexington, Kentucky, Mr. Baesler.

Mr. **Baesler**. Thank you, Mr. Chairman.

I think the two or three things I think I would like to see us include in our statement when we talk about reauthorizing secondary education is, first of all, to acknowledge that education begins not just when you start into school, but at least 6 weeks, you know, 6 weeks old and on. Second of all, that education also should include the parents, teenage mothers—specifically mothers.

Now, what I want to talk about very briefly, because my person here who actually developed the program, Ms. Barbara Curry, will talk about it in the second panel, so I won't be redundant. It is a program that fits very well into what Mrs. Lowey talks about, because it is a program that begins when young people are 6 weeks old. We know this program works. We have developed it in Lexington, Kentucky. It has been going since 1989, and it involves several thousand young people at the present time.

After my discussion with Secretary of Education Riley, he indicated that part of his goals for 2000 would be the goal that we prepare our young people for school before they get there. I think that preparedness requires several things. Number one, it requires the community to coordinate their services, and not just educational services. I think educational service is a major component, but pediatric health and dental clinics are a part of it.

In addition, there is an education component when there are teenage parents, particularly in the case I'm talking about, in at-risk kids. It's my conviction that we will not successfully get the young people out of the cycle of poverty, if we don't treat the family as a unit. I think that is a goal of education, I think, first of all, to treat them as a unit. Second of all, it has to be a sustained effort. It cannot be an effort where you go for an hour a day and go home.

Our feeling is that there should be a premium put on bringing the young people to a facility for treatment with their parents, and in order to have a sustained effort where there is followup with social workers or support services, volunteers from the community, and particularly the health component I think is necessary.

I think not only does it have to be cooperated, it has to be comprehensive. I do not believe that we will be as successful as we want to be to take people out of the cycle of poverty if we don't have a comprehensive program. The program not only has to include health, but it has to include mental health, physical health, and so forth. All the things that I have mentioned, and that will be described a little later.

The third thing it has to be is, I think, we have to leave local communities the flexibility to do what they can do. I do not think the Federal Government has the ability nor the time nor the resources to design all these programs. I think we need to encourage the local communities to do their thing, and let them decide how it's best going to fit.

In our community, we had certain resources we could put into this program, several million dollars. A lot of communities do not have those resources. But I think we need to have the coordinated service, comprehensive, and it needs to be flexible.

How do we encourage that? I think we have to put a premium on it. In the Federal Government, we have to put a premium on for communities to accomplish those three goals: flexibility, comprehension, and coordination.

How do we do that? First of all, we do it by simplifying and unifying many of our regulations. Right now, if people applied for AFDC or a few other programs, they should have similar, very consistent regulations and not have several different things you had to apply for, one or the other. So we can put a premium on local communities and help them, encourage them to do these things if we do that.

Number two, we can reward initiatives. Today, you are going to hear several initiatives from many communities. I'm sure that there are 25 more throughout the whole country. We, as the Federal Government, I think, can reward initiatives and let the local communities and State communities do it.

A third way we can do it—to sort of a follow up on what Mrs. Lowey said in some respects—I think a very small amount of demonstration grants or other grants can be made available if communities demonstrate that they want to coordinate, they want to be comprehensive, they want to be flexible, and they want to show some initiative. If we do that and let the local folks do it, then it will work, and I think we will all be pleased with how they handle it.

Now, why do I think that's important? It's important because there are no two communities the same, no two communities that have the resources in the same place. Some have universities, some do not; some have a health department, some do not; some have a lot of facilities, some do not have any; and some have a lot of money, some do not.

So my recommendation when we're talking about the reauthorization is that we, in real terms, put a carrot out there to encourage coordination, comprehensive service, and flexibility. That carrot could be those things I have talked about.

I think all of this fits. We are talking about Head Start, Mr. Chairman, Head Start fits in it, Even Start fits, Mrs. Lowey's program fits in the school. But we've got to start.

I saw a TV program last night on Hawaii where basically when the kids were first born in a hospital, they start interaction with their parents. Where they found that they had some difficulties, they stayed with the parents from that time on.

I think when we reauthorize and we talk about education, we need to make sure—and I'm sure that you will already do it, but I think we need to make sure that everybody else does it—and that is, broaden our scope to include when you are first born, to include your whole family unit. As you will see later when we describe our program, by including the family unit, then the young person has a chance to get out of the cycle of poverty, as does their parents. And that's our goal, to make them self-sufficient.

I will not say any more, because my person is here who knows much more about the program than I do, and I will let her describe it and answer any questions.

We know it works, and we are not asking for a dollar from our community for this program. We know ours already works and we are fine with it. We just think we would like to see its components be put in the mix of things that we talk about throughout the next several weeks, several months when we talk about reauthorizing secondary education, because education is just not in schools. It's not just the responsibility of the public schools; it is the responsibilities of the communities. I think if we let the communities be innovative, then we will—the education of our young people and of their parents—will, I think, be much more successful and will allow the next generation, hopefully, to be out of the cycle of poverty that some of the present generation, unfortunately, exists in.

Thank you.

Chairman KILDEE. Thank you very much.

I appreciate your closing remarks too. Very often we hear what's wrong with education in America, and very often we don't hear what's going on in a very good fashion in America. I think that one of the roles of the Federal Government is to help other districts replicate, with whatever changes they may need for their own community, and have the Federal Government assist and help in doing that. There are some great things going on in education, and I appreciate your testimony.

A member of the full committee, a good friend of mine, Rob Andrews.

Mr. Andrews.

Mr. ANDREWS. Thank you, Mr. Chairman, and thank you, colleagues.

It is a pleasure to testify before the best committee in the Congress of the United States. It is also a pleasure to be here with my colleagues to enthusiastically endorse this bill. One of the first pieces of legislation I was privileged to attach my name to 2 years ago was Link-up for Learning, that Mrs. Lowey has championed with such vigor over the last few years. This morning, I want to talk about whose interest we are serving in this piece of legislation and why it is so important to serve those interests.

Many of us represent this person: She is a 22-year-old woman who has two children, ages five and seven. She doesn't have much of an education herself, and she probably doesn't have a job. Think for a moment about the bureaucracies that she must interact with to deal with her children's needs. If she wants to enroll her children in medicaid, she goes to a social services office, probably two or three miles away from where she lives, which she reaches by public transportation, if it's there.

If she wants to enroll for food stamps, she goes to another social service office and enrolls there. To deal with AFDC, she goes to yet another bureaucracy, another agency, in another part of town and enrolls there. If she is in a welfare reform program, like the one we have in New Jersey, she enrolls in what is called the Family Development Act for Job Training and for other development, and she goes to yet another office with another set of applications and another set of bureaucrats and does that.

If she has a mental health or health problem, as typically a family like that would, she goes somewhere else—to a hospital, to a health clinic, to some kind of university or other health-care provider. If her children have learning disabilities, she goes to yet another agency—maybe inside the school, maybe not. If she has a concern with a language barrier, she goes to another agency, in another building, in another part of the city, somewhere else.

It strikes me that one needs to have a master's degree in public administration to enroll one's children in services that are already there. If we are looking for a new commission to study social service bureaucracy in the country, we shouldn't look to the Brookings Institution, we should sign up nine or 10 welfare mothers, because they know more about the system than anybody else does. They have to deal with it every day.

Now, one of the other things that that mother, presumably, does is take her children down the street to a neighborhood school and enroll them. They go that school from the age of five until 17 or 18—we hope—although many don't make it that far. They go to that school from about 8:45 in the morning until 2:45 in the afternoon, and the school is open from Labor Day until the middle of June.

Now, that is crazy to have a multimillion-dollar public investment in a public facility in her neighborhood, to have a multibillion-dollar investment in bureaucracies that deal with job training and health and mental health and child care and income assistance and food stamps spread all over her city, all over her rural community, all over wherever she lives. That is crazy.

The one place that that family probably relates to on an ongoing and predictable basis is the public school. It is a place where there is already an institutional arrangement. There are resources; there is a pattern of the family interacting with the school.

The idea behind Link-up for Learning is to make those services more accessible to that family in a way that anyone could understand, that does not require the PhD or the master's degree in public administration. That's the family we want to help here.

Why is it so important to help that family? Because as we sit here this morning, we continue to write off a whole generation of young Americans. The 15 percent or so of young Americans who live below the poverty line. The reality is this—if we don't make some dramatic, fundamental changes in our education system and our social service system, 15 years from now most of that 15 percent will either be on unemployment, on welfare, in jail, in prison, or dead. Or they will be raising their own children at the age of 15 or 16, 15 years from now.

Now, we can continue what we have been doing for the last 45 years, or we can make a change. This is a modest step toward making the kind of change that we need. As my colleagues said a few minutes ago, it says to school leaders and community leaders and elected officials around this country that they are encouraged and given incentives to do what they think works best in their community.

It rewards initiative. It rewards the idea that says that maybe food stamps could be dispensed through a school, just as easily as a social service bureaucracy; that maybe it makes sense to have the health clinic in the school so the children can all be inoculated through the school system instead of herding them on a bus to another part of the city.

This is not rocket science. This is something that local officials and school superintendents and teachers and parents do every day. We just make it very difficult for them to accomplish it. The idea behind Link-up for Learning is to make it easier. The imperative is not simply moral to address the needs of these children, it is economic.

If 15 percent of our potential workforce 20 years from now is ill-nourished, poorly educated, ill-fed, lagging behind the rest of their peers, we will surely fail as an economy. We will surely not have the brain power and the initiative and the skills to compete in the economy. So we can change now, or we can pay later. I think this is one of the ways that we can make a change in a very constructive way.

I applaud Mrs. Lowey for initiating this legislation. I stand ready to work with her and with you to make it a reality.

I thank you.

Chairman KILDEE. Thank you very much.

Let me start out with a general question which any one of you or all of you could respond to. Obviously, in Lexington, you have a program that is working. And in New Jersey, in certain places, you are familiar with programs that are working. Now we are looking at what the Federal role should be in this Link-up for Learning.

Maybe we will start with you, Mrs. Lowey. Does your bill give enough flexibility to LEAs and State education agencies so that they can devise their own type of system to accomplish these goals?

Mrs. LOWEY. Without a doubt, Mr. Kildee. I'm delighted that you asked that question, because as a new member of the Appropriations Committee, I have had the opportunity to meet with Secretary Riley and Secretary Shalala and Secretary Reich, as you have. At the top level, at the Federal level, they are talking about just what we want to do in this bill. They want to coordinate services because they realize that by working together we can actually save dollars.

Just as my articulate colleague said, rather than having some going to this building for this thing and this building for that thing and having a welfare mother run all over town, they realize that by working together they can be more effective and they can be more cost-effective, save dollars in the long run. But they also understand that you can't mandate from the Federal level. The job of the Federal level is to encourage. In fact, as we know, the national average in funding educational systems from the Federal level is somewhere between 6 to 7 percent, nationally.

What they want to do at the Federal level is ease coordination, encourage coordination, and let the local LEA design a program that makes sense for them. In one particular community, they may have a large public school where they can provide the entity the fulcrum for all these services and make it more effective there.

In another community, they may decide that there is a wonderful new community center a few blocks from the school, and the school and the community center would work in partnership to provide these services. We are not mandating anything from the Federal level. We are providing the encouragement. Now there are about 170 of these experiments around the country, and we want to create more of them.

Chairman Kildee. Yes?

Mr. Baesler. Mr. Chairman, I think—and to add just a little bit—I don't think we want to limit our encouragement just to the educational institutions. Because, as I said, education is not just their responsibility; it's everybody else's responsibility. I think, as Mrs. Lowey pointed out, we have a simple way to encourage it, and that is, first, by little carrots out there; second, by ease of administration; but, third, by recognizing that we recognize that initiatives are all over the country, there are good parts to hundreds of programs, and that people do accomplish the same goal different ways.

I think how we do it is part of our goal, to say we want to get these at-risk kids and their mamas or whoever, we want to give them a better chance than their mama had or their daddy had or their grandparents had.

So I think you say, "Okay, Mr. and Mrs. Community, the ball is in your court. You show us how you are going to coordinate the services to reach this goal. You show us how you are going to use your health facility, how you are going to use your education facilities, how you are going to use your dental health facilities, how you are going to use your nutrition program, your JTPA program. How are you going to use your GED program? How are you going to use volunteers?" I mean, don't leave that out here, because the volunteers in the community is what you need.

We don't want to show you how to do it. You know more about what you are doing than we could ever think to know about what you are doing. But if you show us all of that, then we are willing to add X to help you do it. And X might be different in her town or her community than in my town or Mr. Andrew's town. We might have one through five, but we don't have six, seven, and eight. So help us get six, seven, and eight. She might have six, seven, eight, nine, and 10, but don't have one, two, three. Help us get one, one, two, three.

We have got to just have the resource here to be able to fill in the blanks in the community with one objective—getting the folks out of the cycle of poverty and letting them become self-sufficient, so the next generation doesn't have the same problems. The worst thing we can do is strangle initiative and strangle ideas and tell us, "We've got all the answers." We don't have all the answers. We know where a lot of them are, but we ought to encourage it.

I think the program we are talking about here, the program I saw on Hawaii on the TV last night—they are all over the country. The PACE programs, you know, we're talking about all of the Head Start money now. Just give people—say, "Folks, you out there know what we want to do. Tell us how you want to do it, and we are here to help you do it." You know, people say, "Well, the government is here to help, it might hurt." We're here to help you do it, and that's all. Then get out of the way, and then go back and check and see what works here.

She says hers works; Mr. Andrews says his works. We go over here and we say, well, let's take Mr. Andrew's and Mrs. Lowey's part, and we can go out here and tell these people in Ms. Woolsey's area it works. She can tell us hers works.

But we're the only organization in the whole world, in the whole country, that have the carrot and can have the wherewithal to give these people this opportunity. We're the only ones, because we're the only ones up here that own all of them. I think we have an opportunity to make a difference for the next 25 to 30 years if we let people show us how to do it, because they can do it.

We just need to get in, and get out of the way. Here's what we want, you tell us how you're going to do it, and we will get out of the way. But make all the community do it. Don't put all the burden just on education, because it's not just their responsibility.

Chairman KILDEE. Rob, do you have anything to add to that?

Mr. ANDREWS. Mr. Chairman, I would just echo what my colleague said and add this. I think the most successful social institution in poor communities is the church, or the religious institution, and there is a reason for that. The church and the religious institution is organized to meet the needs of the families that participate.

They don't say on Sunday, "All we do here is preach the gospel or teach religious lessons." They say, "If somebody has had a fire in their house or has an alcohol problem with their son or daughter," they figure out a way to help people. It's an institution that is organized around the principle of empowering a family.

Our schools are still organized on the principle of educating children, which is terrific, but the children who are coming into schools in at-risk neighborhoods need so much more than that. I mean, these are kids that are coming from homes where alcohol and drug abuse is a frequent problem, where there is insufficient nutrition, where there is insufficient income, where some of them may get shot on the way to school.

Now, if we choose to define the mission of schools as simply teaching the skills and values that we think education ought to do, we will continue to fail. So the point I would make to you is that, why not encourage schools to think of themselves in the way that religious institutions do in that respect, not in mixing church and State, but in the respect of organizing themselves to meet the needs of families, instead of expecting families to organize themselves to meet the needs of the existing bureaucratic structure? That's what we need to do.

Chairman **Kildee**. Thank you very much.

I'm going to yield now to my good friend, Mr. Goodling.

Mr. **Goodling**. Thank you, Mr. Chairman.

First, I would welcome my colleague from Kentucky. Lexington is near and dear to me. Versailles is even nearer and dearer to me because Fred and Peppy Sykes are there at Brookdale Farm, and thank goodness Calumet didn't get cut up into a bunch of developments, et cetera, et cetera. You might know from my talk I'm very interested in the thoroughbred horse industry.

Mr. **Baesler**. Well, as the Mayor of Lexington for many years, I was too.

Mr. **Andrews**. Are you trying to get a free ticket to the Derby?

Mr. **Goodling**. A free ticket to the Derby? Well, Chairman Perkins not only gave us free tickets, Chairman Perkins also gave us State police to drive us everywhere during those days.

Mrs. **Lowey**. Those were the good old days.

[Laughter.]

Mr. **Baesler**. That's right.

Mr. **Andrews**. Chairman Ford has given us the Final Four tickets.

Mr. **Baesler**. The lowly freshmen don't have that opportunity, believe me.

[Laughter.]

Mr. **Goodling**. Well, it was quite an experience. I'll say that. He was a wonderful, wonderful chairman and a great friend of education.

When I introduced my coordinated services for school students and families, I tried to look at the GAO report in September of 1992. I don't know whether you have looked at that closely or not. Basically, what they were saying in there is be very, very careful about trying to mandate coordination between these different agencies and so on, that the best way these programs have worked is to encourage it, as you were saying, rather than trying to mandate, because then you get into all those turf battles, et cetera, et cetera.

Basically, what I say is I add a new part to Chapter 1, Part G, and it's just called "Coordinated Services for Families and Students." It permits the schools to develop partnerships, as you are all suggesting, with the community. In their report, as I said, they were warning us not to get into the business of trying to mandate some coordinated effort, but rather to encourage it because of all of the turf battles, the funding problems, et cetera, et cetera.

When I was listening to all three of you, I was thinking that, now, if all three of you were here on the committee during the last 10 years that I've been trying to get some flexibility through this committee so that a lot of these things can happen back in local school districts, maybe a lot of this would have already been accomplished by this time. But we have been spending so much time in my 18 years here talking about access, rather than access to what, that we are just afraid to touch the business of flexibility.

"Somehow or other we can't trust those people back there. They don't know what they are doing. We in Washington are so brilliant that we have all these wonderful things."

I would hope you would help us. I think the Secretary has some flexibility in some piece of legislation, I picked up from the press, that he apparently is going to be introducing and has brought before the majority already. We may see it someday on my side of the aisle, but I think there is some flexibility in there. I would encourage you to help us, because I think that's the way we will get this coordinated effort.

Now many school districts are scared to death to do anything like this, because the auditor will come popping in and say, "Now, wait a minute, you didn't get the money at the right place. We don't care whether you accomplish something or not, but you didn't get the money at the right place." So I would encourage you, those of you on the committee and those of you who will be on the floor, to help us with some kind of flexibility program as it comes through.

I am happy to see that you are on the Appropriations Committee. Dale and I used to get the ball all wrapped up, ready to throw on the Budget Committee. He still does that on behalf of education and nutrition. Of course, we have always had to go to Mr. Natcher, who has been a great friend, and Mr. Pursell who has been a great friend, now we can go to Mrs. Lowey, who is a great friend. We should do well.

Mrs. **Lowey**. I hope so.

Mr. **Goodling**. Thank you all for your testimony.

Chairman **Kildee**. Thank you, Bill. Thank you very much.

Ms. Woolsey, who has been very, very active in talking and pushing for legislation like this.

Lynn.

Ms. **Woolsey**. Thank you, Mr. Chairman.

I want to thank the distinguished panel, and commend each of you for your commitment for improving education in this Nation.

I talk about this from a passion that comes from personal experience, having 23 years ago been a working mother on welfare with one-, three-, and five-year-old children. I knew at that time how very fortunate I was that I was educated, I could speak English, and I was a very assertive person, so, I could get through the maze. I know how much more difficult it is now for single mothers, particularly for families that haven't been educated in the first place.

What you are talking about is exactly what I based my campaign around. The Federal Government needs to step up to the plate and do something about preparing children so that our local and State governments can educate them. I commend you for your foresight and for your involvement in this issue because, as I said, I think it is crucial to the future of school reform.

The simple fact is that the failure of our youth lies outside of the classroom in many, many instances. Students must be ready to learn before they enter the classroom, otherwise our teachers cannot educate them. Fortunately, as you have told us, some communities around the Nation have found solutions and are very innovative, and that innovation is coordinated services or school-based services. Schools that can effectively link themselves with social service agencies and ensure that families are responded to when they are in need are those that are going to be successful.

I would like to suggest that we not only concentrate on the very needy. There are working families in America that aren't on welfare, but still their children need the supports that we are talking about here. There are many school reform strategies that are worth supporting. There are many changes in the Elementary and Secondary Education Act that we must consider. In my mind, there are none more important than the strong support for coordinated services.

I really thank you for what you have brought us. I have signed on to Congresswoman Lowey's legislation. When I got here, I mean, I thought I was the only one that knew that this was necessary. Lo and behold, you have been way ahead of me for a long time. I really want to help make this happen.

Nita, as a member of the Appropriations Committee, do you see any commitment for supporting these programs financially?

Mrs. **Lowey**. I do, Lynn. I am delighted that you have become an ardent supporter of this whole concept, because we know that this really works. And you can count on my support for sure. From my short experience on the Appropriations Committee, I do believe there is a commitment of coordinated services, and they understand how important that is. Because again, it is starting at the top from the Secretaries who are beginning to work together.

I just want to make one other point in reference to what Mr. Goodling said before. So often when we are developing policy, we think we are doing something terrific and something new, but it has really been around a long time. I was thinking the other day, as I was talking to some elderly gentleman in my community who came to this country and went to the Henry Street Settlement House in Lower Manhattan to get services.

What were they getting? You know, Link-up for Learning coordinated services. In this one place, they were getting all the social services that were absolutely vital to help them adjust to this great country of ours. Their children were learning languages, and the parents were learning languages. Someone else was ensuring that they get the health services they need, and someone else was helping them just get through the maze of the necessary procedures that they had to go through to become a citizen of this country.

I do believe that there is the understanding in the Appropriations Committee that this is vital and that it is cost-effective. As my colleague said, rather than running from one end of town to the other and waiting on long lines and wading through the bureaucracy, if they can get these services in one place, it is cost-effective. We are in the business of providing services at the lowest possible price today, so I think there will be support.

Ms. **Woolsey**. Good. That makes me feel good.

Are any of you setting parameters and standards for Federal Government support? I mean, how do you see this happening with——

Mr. **Baesler**. I think you've got to be very general in your parameters and standards. I think you have just go to have what you want to accomplish, and that is, we want to have a program that gets people out of the cycle of poverty. How are you going to do it in your town? We would like to see it coordinated, we would like to see it involve most of the community, and we would like to see these type of components. But how are you going to do it? That's about as far as I would say.

Mr. **Andrews**. I agree.

Ms. WOOLSEY. Oh, good. I agree, good. Thank you.

Chairman WILLIAMS. Mr. Cunningham.

Mr. CUNNINGHAM. Thank you, Mr. Chairman, and I would like to thank my colleagues.

To the gentlelady, I don't use the term "elderly" anymore or "senior citizen"; I use the term "chronologically-gifted folks." I think they like that.

Mrs. LOWEY. Well, chronologically gifted?

Mr. CUNNINGHAM. Yes.

Mrs. LOWEY. Oh, okay.

Mr. CUNNINGHAM. Let me talk like a business guy here for a second, but don't get mad at me, because I'm going to make it better. I think when we talk about combining services to better receive government services, I don't like that. I like to work in a direction of getting to the people, and putting us out of business in the Federal Government, which I know you are alluding to. The end result is to get that person a job so that they don't have to go all over town to get all those kinds of services.

My first district—and we have a witness from San Diego today from that district was 66 percent minority. We had a lot of the same kinds of problems, where we had high dropout rates and we have kids and a lot of crime in a lot of different areas. Before I went to that district, I would say, "Why do I have to spend my tax dollars to pay for someone that drops out of school? Why doesn't the family and the church step in? I agree the church is one of the strongest forms of education in those particular areas. We've got Reverend Manley and Bishop McKinney, and they have good programs down there.

One of the things that I found out by working in that district, which is now Bob Filner's district is that you can't have the families do that until the families become families. You have got to start the process where that young person, before they become a family, goes through the education so that they have a job. Because in many of those families in South Bay, San Diego, a lot of them don't even speak English in the homes. How does that parent help their children? We do need to coordinate those services.

I worked with Blair Saddler from Children's Hospital in coordination and, also, our witness from San Diego, Jeannie Jehl, who is going to speak in a minute. It is a good program. Those kinds of coordination, as long as they work towards the direction of getting people off of Federal programs, I think we can support on this side of the aisle. I would like to thank the witnesses for testifying.

That's all I have, Mr. Chairman. I'll be brief.

Chairman KILDEE. Thank you, Mr. Cunningham.

Mr. Payne.

Mr. PAYNE. Thank you, Mr. Chairman. Let me just say that it is certainly a pleasure to see my classmate and former colleague on this committee, Mrs. Lowey. As a matter of fact, when I reviewed my schedule last night, I saw that she was going to grace our committee with her presence, and I said let me get here early and get a good seat. I want to get a chance to go on. It is really a pleasure to see you and Rob and Scotty.

I think that it makes a lot of sense what you are attempting to do. No question that we are having limits on resources and, therefore, collaboration is extremely important. I like that sort of catchy term, Link-up for Learning. I think we really have to do more linking up so that we can connect because currently there is too much disconnect.

I would hope that this could move forward. But then I think that what would be really important is, then if you could take your model and take it to the Armed Services, maybe when we talk about trying to find the funds, say—and you are a member of the Appropriations Committee—to appropriate for some of these excellent ideas and programs.

We always hear the fact that there is no money available. But just think if they would link up the Armed Services, if they would take maybe one fighter plane rather than each service have their own, each developed, each with research and development, each has their own amphibious landing crafts, each have their own weapons. Just a tremendous amount of waste.

I think President Clinton alluded to the fact that perhaps we ought to have one system of weapons, and that kind of got blown out of the water. They don't want to have at this point to have a coordinated system. I think as we move to the future, we will also see that.

I think that what you are trying to do here in education, the coordinated services, is so important. I would just like to commend you for your outstanding work.

Mrs. **LOWEY**. Thank you very much, Mr. Payne.

Mr. Kildee, this is such fun. Hearing all these nice comments, I may just want to appear here on a regular basis. I want to just tell you what a good time I'm having this morning.

Thank you, Mr. Payne. I do miss sitting right next to you over there. It has always been a real pleasure working with you.

Chairman **KILDEE**. Mr. McKeon.

Mr. **MCKEON**. Thank you, Mr. Chairman.

I mentioned before at one of these hearings, that I had served on a school board in my previous life and I really like the idea of flexibility. Some of the grants we send from here, we give to the local people. I think that they do have the best knowledge of the local area, what is happening in the local area, and the best ability to solve the problems. I think that we really err when we try to solve local problems from here. I really like all of the things that I've heard you say.

I took note of the comment about how life used to be, where you used to go to one place and now it's spread all over. Mr. Andrews was just talking about people in his district—a district that we all represent—where the people have to go two or three miles. Where I come from out in California, people would be happy if they only had to go two or three miles. When we talk, a "little journey" is 20 miles or 50 miles. We don't have the public transportation in many cases to make those trips, so it is very difficult for people to get around. Anything that we can do to coordinate these services would be one that would be well-accepted in our area.

Thank you very much.

Chairman **KILDEE**. Thank you, Mr. McKeon.

Mr. Reed.

Mr. **Reed**. Mr. Chairman, as the Rhode Island president of the Nita Lowey fan club, I had to be here today to express my regard to Mrs. Lowey. I'm compelled by my membership.

[Laughter.]

Mr. **Reed**. I am glad to see that Nita is over on the Appropriations Committee, because, of all the great things she can do, she can get us real money.

I have just one question for the panel, and as the cosponsor of the legislation, I should be able to answer this myself but I would like the sponsor and her cosponsors, Mr. Andrews and Mr. Baesler, to also comment. What role will the States play in this program?

As we look at the issue of flexibility and reaching down to local schools, as the former mayor so eloquently expressed, each community has its own role to play. In this educational puzzle we are trying to define, the States seem to be smack dab in the middle of everything with their regulations and their rules. I wonder how you see their role playing out? I'd appreciate comments from all the panel.

Mrs. **Lowey**. Thank you. As usual, my esteemed colleague always has an outstanding question, and I appreciate your kind words.

In talking to Secretary Riley about the proposal which he is planning to submit to this outstanding committee for your review, and hopeful passage, in the first year of his proposal he plans to direct a good percentage of the dollars to the States in order to establish a plan that would then be submitted for review, and then the dollars would increasingly go to the local governments.

This Link-up for Learning bill certainly can be considered in the context of overall school reform. There are some communities that, frankly, don't need the Federal Government, they don't need the State government. As we know, there are 170 pilots out there which have been conceived by the collaboration of all the local groups at work—community centers and schools and hospitals, et cetera, just saying, "Let's do it." In other communities, they may need some encouragement, some creative planning on the part of the Federal and State government.

I do expect that, as in New York, where we have put together the Compact for Learning, which is a very exciting plan and where the State is encouraging their local LEEs to put together new ideas, creative new ways to deal with the difficult issues we have, unfortunately, ahead of us. There is a role for the State, but I still would like most of the resources in this bill to go directly to the local education agency in the area to coordinate.

Mr. **Andrews**. I would just add that one of the criteria that would favor an applicant is if their local plan fits into a broader State plan of coordinated services. So, for instance, in New Jersey, our Department of Education has initiated a Family Schools Program that does many of the things we are doing. If your local application fits into a broader State plan, that's credit in your favor toward getting eligible for one of these grants.

Mr. **Baesler**. Part of the State of Kentucky's—I mean the educational reform package was the development of family resource centers and youth centers, which is similar to what we are talking about. So I think they just sort of fit in the mix, and I will echo what they have said.

Mr. **Reed**. Just a final point. Mrs. Lowey, then you would concede that in an operational sense, your legislation would probably be incorporated in the reform measures that the Secretary is contemplating now?

Mrs. **Lowey**. Yes, I do consider it, as it was last year when we passed it in the House.

Mr. **Reed**. Right.

Mrs. **Lowey**. But then as usual, we need to do a little more work in the Senate. In fact, I have recommended that we change terms. We should have the six-year term and they should have the two-year term because, it seems to me, they have to be prodded to act faster.

But as you know, link-up for services was included in the reform package from last year. We hope that it will be part of that package again, and in addition, be part of the Elementary and Secondary Act reauthorization process.

Mr. **Reed**. Thank you very much.

Mrs. **Lowey**. Thank you so much, Mr. Reed.

Chairman **Kildee**. Thank you.

Mr. Sawyer had to go upstairs to another meeting, but he wanted to be assured that I would associate him with all of the laudatory remarks concerning Mrs. Lowey.

[Laughter.]

Mrs. **Lowey**. Thank you.

Chairman **Kildee**. Ms. Molinari.

[No response.]

Chairman **Kildee**. Mr. Gunderson.

Mr. **Gunderson**. Thank you, Mr. Chairman. Welcome all.

I was sitting here trying to figure out how to respond to this testimony. The first thing, I think, is the good news that we are all agreed upon the goal. We are, perhaps, going to debate the method of implementation. Then I look at this legislation, and I am aware of the legislation Mr. Goodling has and I am aware of legislation I am developing in this area.

I am not sure whether I'm a conservative or a liberal, because I don't quite understand why we have to pay all of these local schools and local units of government in the social services area extra money to do what they ought to be doing anyway. On the other hand, I may be a liberal because, very frankly, I'm not sure we shouldn't just mandate that all these, at least, Federal programs be coordinated. I guess I'm trying to figure out what all this means here. But why not——

Chairman **Kildee**. I've been trying to figure out whether you're liberal or conservative, too, for several years here.

[Laughter.]

Mr. **Gunderson**. I mean, I'm struck—why would we spend $1 billion a year, $500 million to coordinate, when really what we are talking about—at least when you look at Chapter 1 and you look at the school people, you look at Head Start, you look at the social service and child welfare people, primarily Federal funds, why would we pay them to do what they ought to be doing already, which is to coordinate their programs?

Second, why would we spend $500 million to purchase, from the schools' perspective, social services which sounds to me almost like setting up a whole new social service agency in the school when we already have one in the county? Now, I think what we have got to do is we have got to bring them together, don't we?

Mrs. **Lowey**. Exactly.

Mr. **Gunderson**. Well, then why not just say, as a condition of receiving Chapter 1 funds, the local education agency must submit proof that they are coordinating these Federal programs and that, I think, all we can do is encourage that they also coordinate the State programs? Does that make more sense? And take this billion dollars and actually get it in the delivery of services, rather than the coordination of services.

Mrs. **Lowey**. Well, Mr. Gunderson, first of all, I'm not sure that any of these labels—conservative, liberal, whatever you want to call it—mean anything today, because I think we have to address the particular issues. We can't wait for either one team or the other team to win. We have to work together to make sure that we address education. As Mr. Cunningham said before, our eventual goal is to get people off welfare, to put people to work. We all agree that education is the key.

I think conservatives, liberals, Democrats, Republicans all agree that if we don't get our youngsters educated, if we don't empty our prisons and put people to work, we are going to be in trouble in this country.

Mr. **Gunderson**. Let's assume we've got $1 billion.

Mrs. **Lowey**. Okay.

Mr. **Gunderson**. Why not instead of using that billion dollars for purchasing and paying for coordination, take $500 million and increase Chapter 1——

Mrs. **Lowey**. Okay.

Mr. **Gunderson**. [continuing] take the other $500 million for Head Start and early childhood vaccination? Wouldn't that be a better spending of the $1 billion than just coordination?

Mrs. **Lowey**. Let me answer this. In a perfect world, everyone would be doing this because its common sense. As I said, the Henry Street Settlement House was doing this 50, 60 years ago, and they didn't need the Federal Government telling them. Someone in the community put together the Settlement House and they welcomed the new immigrants and they said, "Well, they need help with their health services, they need help with language training," they needed someone else to help them get a job. They just did it.

Unfortunately, life has become more complex today. There is such difficulty as I see in some of our communities for the principals, for the teachers to deliver services, to educate the youngsters. As I also said, all of the problems of our community converge on that school system. What this grant is going to do is to provide additional support to encourage them to provide the services that you and I are saying is common sense; they should be doing it anyway.

We are not directing them to do it, but we are providing extra carrots, extra incentives to encourage them to put in place these coordinated service which seem to make absolute sense to everyone here, on both sides of the aisle.

Mr. **Andrews**. Mr. Gunderson, let me try to answer your question, because I asked the same one. One of the attractions of this idea is that it takes money we are already spending in various social service systems, and I believe spends it much more intelligently.

You can fairly ask the question, why don't we just have people do that? Why do you need a carrot, an incentive program of Federal money to do that? Here are some very practical reasons why. The theoretical idea of combining a food stamp office and a health clinic and a job training agency and a school under the same roof requires some practical link-ups that do require money.

Computer systems have to be regularized so they can work together. Perhaps, there has to be more space rented from time to time to make everything fit. Maybe if you have to get employees under the same pension or benefit plan, it takes a little bit of money to make that work correctly. My approach would be this.

One of the criteria—and I think the bill provides for this—one of the key criteria for getting one of those grants is that you have done the things that you can already do with your local dollars and your local political will. You have maximized and optimized those kinds of decisions.

Then this little bit of Federal money—and we are talking about $250 million a year in the context of a, what, $350 billion year public education system? This little bit of seed money is the money that regularizes computer programs, provides for a little extra rental assistance to get the people in the same building, deals with transportation problems that might be necessary to get an employee from one place to another.

What if the food stamp worker is going to be there one Friday every 2 weeks, and it is necessary to get that person from the food stamp office where she normally works to the school? You have to get them there somehow. Well, that money is not in the school budget. Typically, the district that needs that is not going to have extra dollars sitting around to do that, by definition. That's the idea, that the little things that are necessary to really fit this altogether is where it comes from.

Mr. GOODLING. Would the gentleman yield?

Mr. GUNDERSON. I'm out of time, I am sure.

Mr. GOODLING. I wean my fowls the fourth or the fifth month. In my legislation, I wean them off of Federal dollars as the years go on.

Ms. WOOLSEY. [presiding] Mr. Green.

Mr. GREEN. Thank you, Madam Chairwoman.

I think all of us share the interest in both the technology link-ups, that we had a hearing last week on, but also in providing the one-stop facilities for social services. The concern I have—and I've been to lots of elementary schools over many years—is that the facilities we have in most of our schools, particularly inner-city schools, are not adequate now for educational purposes. We are talking about either additional buildings or whatever, and the $250 million is just not enough to do something like that.

But again, you know, whether it be in Texas—we have DHS and we have lots of other agencies that if they coordinated and rented space close to the elementary school, for example—of course, I still have a goal of providing additional health care, you know, immunizations and things like that through the school, linking up with local healthcare providers, hospital districts, and what have you.

If you could either address the concern about the facilities. Typically, State governments do not provide funding for educational facilities; that's all local money. We, in the Federal Government, again, $250 million is not enough to provide nationwide facilities for the coordination. As far as for the program on the technology link-ups, I think a lot of States are doing that now. And we can encourage that even more, whether it be the Secretary's bill or the Elementary and Secondary Bill reauthorization.

Mrs. LOWEY. Again, I want to stress, as I said to Mr. Gunderson, this is seed money. The whole idea here is to encourage this activity, which we think is so important. And in some of our communities, as our mayor stressed, they are doing it without us.

I also want to comment and respond to Mr. Goodling when he talked about weaning local governments away from Federal dollars. You know, we really can't have it both ways around here. I think we are going to have to rethink how the dollars are spent on education. Traditionally, it has been a Federal—excuse me—a State and local responsibility.

If we are going to develop national standards and we are thinking of voluntary standards, voluntary assessments, we have to get into the inequalities of our various school districts. I am not sure that we are going to have as our goal weaning away local governments from the Federal Government in areas where critically needed services are going to make a difference in educating our youngsters. That's another issue for another day. Again, this is seed money.

Mr. GREEN. Well, we have had Chapter 1 funding since 1965, and we can't tell you today that we need to wean that away from education.

Mrs. LOWEY. Chapter 1 funding in some of our school districts has really become, as we know, more of a revenue-sharing program because they can't make ends meet without it. Again, this seed money. It's not going to do the whole job, it's not going to build new buildings, it's not going to provide for massive computer systems. It is there to be the carrot, to encourage, to cajole our local districts into doing what is absolutely essential, to educate those students.

Mr. GREEN. Thank you, Madam Chairwoman.

Ms. WOOLSEY. Mr. Boehner. Oh, he just left. All right, then.

Mr. Roemer.

Mr. ROEMER. Thank you, Madam Chairwoman.

I, too, like Mr. Payne, got up early this morning and looked at my schedule and saw such distinguished people as Nita and Scotty on the schedule for testimony this morning. I continued to look down the list and saw Mr. Andrews' name on that list, and decided to sleep in a little bit.

[Laughter.]

Mr. ROEMER. I'm just kidding.

I would like to commend our distinguished panel this morning as well, too. Nita, for your leadership for Link-up for Learning; Scotty, as the new member for coming before the panel and giving us your expert testimony; and my good friend and colleague in my freshman class last year, Mr. Andrews, who has really worked so hard not only here on this committee on this issue, but back home in his district, working for the children of this country.

I think this legislation is particularly important, and I can tell you a specific example why. I have just visited inner-city schools in Chicago, talking to teachers and principals there, where funding is a severe problem; where we don't have, at the elementary school where I visited, sports teams for these kids because of funding problems.

They didn't have a full-time nurse and a child came to school with an infected foot. The teacher said, "You can't learn with this infected foot," because the child was in a severe amount of pain. They couldn't treat the child at the school and sent notes home to the parents for 3 or 4 days, and the parents still would not do anything about this child's foot. Finally, a teacher had to call a nurse from another school and have that child treated so that that child, after 3 or 4 days of wasted learning opportunities in the school, could finally get treatment for an infected foot.

I think that we need some kind of integrated services, especially in some of our inner-city areas where we see severe problems with social services not having access to these children. We need to find ways by which we not only integrate the services in our communities, but we integrate the departments in Washington, DC, as well too.

I guess my question to the panel would be two-fold. One, just to clarify, Nita, and I should probably know this with your legislation, can this grant be applied not only to integrated services at a school, but at public housing or community centers? Secondly, how do we encourage HUD and Health and Human Services and Education to coordinate these services? I know that you want to establish this department at the Department of Education.

How do we coordinate existing services here in Washington so that we don't waste money, and how do we instill more accountability here? Might we do some different things with the legislation to try to get offices and personnel? Rob was talking about computers that exist here to link up some of those services so that we can again integrate and link up some of those services in our schools and in our neighborhoods.

Mrs. LOWEY. Thank you, Mr. Roemer. Those are really excellent questions. In fact, I can't help thinking that if all the new babies that were born had the outstanding fatherhood of Mr. Roemer, who is a new father——

Mr. ANDREWS. Many of them do.

Mrs. LOWEY. [continuing] they probably wouldn't even need this. [Laughter.]

Mr. ROEMER. Scratch that off the record.

Mrs. LOWEY. He is going to be sorry he did get up this morning. In any event, I'm pleased to respond——

Mr. ROEMER. Nita, could you turn off——

Mrs. LOWEY. You may never invite former members or current members of the committee to testify again.

In any event, these services can be coordinated either at the school or at a local housing project or at a local community center. The important thing is to provide the coordination in an entity that makes sense. Certainly, your comments are well taken, and it can be effective in any of these sites.

Secondly, what did you say? Oh, coordination, yes. As I mentioned before, what is so exciting about this administration is they are really not doing business as usual. Secretary Reich is actually meeting with Secretary Shalala, meeting with Secretary Riley and talking about just this, this coordination that is essential.

One of the things that impressed me in talking with the President not too long ago was the fact that computer systems don't talk to each other, don't really connect in this government of ours. Mary Jo Baines, who was just appointed to a position with Donna Shalala in the Department of Health and Human Services, made that point. Coming from New York, she couldn't believe what is going on in this country.

You are losing money. I mean, you're losing money because you may be on one payroll and the other system doesn't even know it. I mean, we've had that in our office in providing services.

As you know, I had to prove for 3 months that a person was alive and kicking. They had them listed as dead, and our caseworkers, who are really rather effective, had to work on this and kept saying, "Uh-uh, you know, Mr. Jones is alive. He didn't die 5 years ago."

We do have to do a lot of work and greater coordination. Certainly, Link-up for Learning is not the whole answer, but it will fit in that general concept, which I certainly applaud.

Mr. **Andrews**. Tim, I think the answer to your second question is aggressive use of waivers, which the administration can do through its administrative prerogatives; it probably doesn't need legislation. For example, if a medicaid rule or a HUD rule would conflict with the ability of a school district to set up this kind of program, the relevant secretary should waive those rules so that the program can be set up. Aggressive and intelligent use of waivers.

To use your example of the child with a foot infection, the frustrating thing about that is that child is probably on medicaid and there is probably some kind of federally-subsidized health clinic within a couple of miles of the school the child attended. Now, it is unimaginable to me that we don't have a system that either the child could be taken by someone at the school to an emergency room or a hospital or a clinic and be dealt with, with dollars that are already in some budget to support that child. But it didn't happen.

I mean, it's insane that there wasn't someone in that school district, funded by those medicaid or health clinic dollars, to deal with the child that morning when he came to school.

Now, probably there are 35 books of Federal regulations that preclude people from doing that right now. The answer to that is to have Ms. Shalala and Secretary Cisneros or anyone else that's involved waive those rules so this can work.

Mr. **Roemer**. Thank you.

Chairman **Kildee**. [presiding] Thank you.

First of all, some of the better points that Mrs. Lowey made, we have to set a good example on the Federal level. I think we have the opportunity to do that now. You and I have both met with Secretary Shalala, Reich and Riley. I used to suggest a few years ago that they might get one telephone line between the three departments down here, because they were not communicating. They are communicating much better now, and I think that with that communication we can, hopefully, have that filter down with the structure of some legislation to encourage that coordination of services on the local level. So I appreciate that comment.

I appreciate this panel. You have been excellent. I really appreciate it. I know how busy you are, and I appreciate your coming to share your knowledge, your wisdom, and your enthusiasm with us this morning.

Thank you very much.

Mrs. **LOWEY**. Thank you, Mr. Chairman.

Mr. **BAESLER**. Thank you very much.

Chairman **KILDEE**. Our next panel consists of two people whom I know very, very well, and others whose reputations precedes them here.

The first, Dorothy M. Reynolds, president of the Community Foundation of Greater Flint. I have had the occasion to talk to her in Flint, Michigan, a Smart Start Program grantee in Flint, Michigan.

Another gentleman whom I've had the occasion to chat with and work with, Rowlan Lillard, principal of Gundry Elementary School, Smart Start Site, Flint, Michigan. We had the Secretary out there a little while ago, and glad to have you here again—and chat with you again, I should say. It is always good to have people from my hometown of Flint. You have been to my office there in Flint discussing many, many good things, and I appreciate you being here.

We also have Jeanne Jehl, administrator on special assignment, New Beginnings Program, San Diego, California, and Barbara Curry, commissioner, Department of Social Services, Lexington-Fayette Urban County Government, Lexington, Kentucky.

Ms. Reynolds, we will start with you.

STATEMENTS OF DOROTHY M. REYNOLDS, PRESIDENT, COMMUNITY FOUNDATION OF GREATER FLINT, SMART START PROGRAM GRANTEE, FLINT, MICHIGAN; ROWLAN LILLARD, PRINCIPAL, GUNDRY ELEMENTARY SCHOOL, SMART START SITE, FLINT, MICHIGAN; JEANNE JEHL, ADMINISTRATOR ON SPECIAL ASSIGNMENT, NEW BEGINNINGS PROGRAM, SAN DIEGO, CALIFORNIA; AND BARBARA CURRY, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES, LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, LEXINGTON, KENTUCKY

Ms. **REYNOLDS**. Thank you, Mr. Chairman and members of the committee.

It's a real pleasure to be here today, and I am particularly happy that we got here in time to hear the congressional panel. I want to share with you that I think, and from what I heard, most of you understand what the real issues are. Perhaps, we are here to affirm that this will, indeed, play in the hinterlands, and perhaps what we share with you will convince you that you are on the right track.

I am president of the Community Foundation of Greater Flint, which is one of the 400 community foundations around the country. We are the grantee of a program grant from the Robert Wood Johnson Foundation under the Johnson Foundation's Child Health Initiative in which the Johnson Foundation was very interested in finding new ways to pay for health care services for children.

In Flint, we put a real spin on the Johnson Foundation's idea and convinced them to give us $500,000 over a 3-year period to create a school-based entry site as a point where children and their families could get access to a wide range of health and human services. This program is designed to maximize the use of existing resources and designed to be replicated with minimum additional resources, both replicated and carried on after the grant period is over.

The collaborators in this program are extensive. In addition to the community foundation, which provided the funding to develop the program, is the grantee from the Johnson Foundation and chairs the policy council that guides the program.

We have as collaborators the Mott Children's Health Center, which is a comprehensive health center in Flint, Michigan, that is the organization which is managing the program; the Genesee County Health Department, the Substance Abuse Commission, the Charles Stewart Mott Foundation, the Department of Social Services, the Flint Community Schools, the Genesee Intermediate School District, Genesee County Community Mental Health, the Flint Roundtable, which is a business-education partnership which received a substantial grant from the Department of Education several years ago. We have had tremendous assistance from the Institute for Educational Leadership, located here in Washington, which has facilitated many of our discussions around collaboration.

Smart Start is an entry point where children and their families in a defined school neighborhood can enter a system of health and human services. It is not the delivery site for multiple services. Screening services are performed at the school, but the important thing about Smart Start is that we have been able to negotiate an interagency agreement which permits children and their families to become part of the whole range of health and human services that I have just cited in a seamless kind of fashion. There is one set of paperwork, one reporting system, one system of care coordination.

Another part of the Smart Start Program that is incredibly important to the Johnson Foundation and which we are working on very hard is the creation of a flexible funding pool for the support of health care services to these children.

In terms of comments that were made a few minutes ago about why entities just don't do what's right, all I can say to the committee is that we are turning around a very large ship in a very small harbor and there is a lot of jockeying that needs to go on; there is a lot of negotiation. Organizations, government agencies have not been rewarded in the past for collaborative efforts. When we speak of collaboration, we are talking about more than coordination, more than co-location. We are talking about pooling resources and governments, and this is an extremely difficult thing to pull off, and it requires time. It required our communities a good many years to get in the state they are in; it is going to require time to get them out.

Another piece of the Smart Start Program that I think you may find interesting is that we have built a volunteer component into that program. The Charles Stewart Mott Foundation has given us a grant to develop the volunteer portion of this program. I am not talking about nice ladies from the suburbs coming in to volunteer in this inner-city school. I am talking about people in the neighborhood, the many grandmothers in that neighborhood who are raising children, pooling their resources, and volunteering and helping each other.

We believe in the case of the child who couldn't get his foot tended to, had there been a good volunteer program around that school, they would have been able to get that kid to the doctor. We have used in the Smart Start Program many, what could only be described as, nonservice delivery approaches to getting people engaged in service—things like aerobics classes for mothers, I think bingo games, stuff like that.

We have really been very fortunate that Mr. Lillard and the people at the Gundry School and in the administration of the Flint community schools have been flexible enough to permit this. A few more points that I would like to make that may be helpful to you as you think your way through what you want to do in this legislation. It's very important, we believe, to look at children in terms of their assets, not in terms of their deficiencies, and to try to build on the strengths that exist within communities.

As several of us reviewed the various pieces of legislation that you all are considering, it does seem to us, based on a very cursory review, I would say, that the tendency is still to create more categorical programs, rather than to build on what is there and to increase flexibility.

We would urge you not to look for results too quickly. As I have just said, these processes take a lot of time. And just as American industry has learned that it can't just read the next quarter's profit and loss statement, we need to have enough time in communities to really effect change.

Another point that is really important is that there is the desperate need for interdisciplinary training for educators and health and human services professionals, and there may be a role for the Federal Government in providing incentives to universities to do that. I know that that kind of interdisciplinary training has taken place across the country with regard to the developmentally-disabled population. That might be a useful model to replicate in general health and human services education.

We don't need a lot of new leadership structures mandated. In many communities across this country, we have leadership structures. If you can build on what's there and trust communities to build on what's there, I think people may be able to get things done more quickly.

I don't want to sound like I don't think money is important, or the plane would probably be shot down before I landed in Flint, Michigan, if I did that. But again, I would say to you, that more than your money, perhaps, we need your willingness to trust the people. It is very heartening to sit in the audience as a citizen and to hear both sides of the aisle agree that children are a very important asset to this country and that whatever gridlock or whatever has prevailed in the past is going to be put aside.

In Michigan, we are also engaged in a program called Communities First, which has come out of the governor's office, which is a demonstration program in five cities in Michigan including Flint, which is designed to try to get people off of welfare, but the real push behind it is to give local communities to waivers to State regulations and to State barriers for improving service.

Mr. Lillard is going to tell you a little bit more about the Gundry population so you will understand the children that we are working with there.

In closing, I would like to say one thing that I didn't hear anybody talk about, and that is, that the movement to reform the health care system in this country is, obviously, on a fast track. I beg you to pay close attention to what's going on with health care reform. If we want to talk about collaboration in terms of things that will make a real difference in the lives of children—and the educational institutions in the country can play an enormous part in that—it is going to be incredibly important to pay attention to what happens in health care reform, and to make sure that those folks pay attention to what you all believe in and that things come together.

Mr. Chairman and members of the committee, thank you very much.

[The prepared statement of Dorothy M. Reynolds follows:]

TESTIMONY
SMART START INITIATIVE
FLINT, GENESEE COUNTY, MICHIGAN
HOUSE SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

March 31, 1993

Representative Kildee and members of the Subcommittee on Elementary, Secondary and Vocational Education:

We are Dorothy M. Reynolds, President of the Community Foundation of Greater Flint, and Rawlin Lillard, Principal of Gundry Elementary School in Flint. As representatives of the Smart Start Initiative in Flint and Genesee County, we are very pleased to speak with you today on the issue of coordinated services in schools. We are delighted to share with you our experiences with the development and implementation of the Smart Start strategy. Smart Start is a neighborhood-based partnership which creates a multifaceted delivery system of human services focusing on healthy, satisfying lifestyles for children and their families. The principle goals are threefold:

1. To develop and demonstrate a school-based comprehensive, integrated service system for targeted children and their families.
2. To develop and demonstrate stronger school, neighborhood and community partnerships on behalf of children and their families.
3. To create the administrative structures to support the first two goals.

The Smart Start Initiative grew out of community concern, sparked by a Child Health Report Card and other local data including that children were not faring well and absent significant interventions, were fated for rotten outcomes. The planning for the Smart Start Initiative began one and a half years before the Robert Wood Johnson Foundation funding was received, in September 1991. The Smart Start Center at Gundry Elementary School opened in June, 1992. The Center at Dailey Elementary School in Beecher is projected to open in June, 1993. Mobilized by local health, education, human services and business leadership, this concern translated itself into the Smart Start strategy, which was chosen by the Robert Wood Johnson Foundation as one of its first four national demonstration sites for their Child Health Initiative: Overcoming Categorical Barriers to Care. The Child Health Initiative, while seeking to develop preventive, coordinated health services for children in each site, primarily is focused on demonstrating:

1. How to make more flexible the funding already in place for children's services.
2. How to identify those needed services and supports that are not funded elsewhere and develop a financing strategy to pay for those services both in the short and long term.
3. How to design a more integrated, comprehensive financing system.

The three-year, $493,550 Smart Start grant began September 1, 1991, and will conclude August 31, 1994. A two-year, $120,000 Neighborhood Volunteer Initiative, funded by the C.S. Mott Foundation to strengthen the neighborhood base of the Smart Start effort, began in April, 1992.

The target population for the Smart Start strategy is infants and children from birth to twelve years old with health needs who are either preschoolers or elementary schoolers, and their families, and who reside in a public school neighborhood or attend school there. Specifically, the target population includes 1,200 children in Gundry Elementary School, (the Flint School District), and 785 children in Dailey Elementary School, (the Beecher School District). Dailey Schools was chosen through a competitive process as the replication site for Smart Start.

Both schools are in minority, low-income neighborhoods that are designated Chapter One eligible. The 1992 Gundry School 1992 data includes:

- 40.3% AFDC pupils
- 62.7% free and reduced lunch
- 99% minority pupils
- 23% mobility rate
- 11.6% retention rate
- 40% of children being raised by grandparents

A commonality among the children in the Smart Start target population is the instability and stress in many of their families due to economic, environmental, social and emotional causes.

The partners in the Smart Start Initiative, led by the Community Foundation of Greater Flint, (Smart Start grantee), are the following: Beecher Community School District, City of Flint, Dailey Elementary School, Flint Community Schools, Flint Roundtable, Genesee Area Focus Council, Genesee County Substance Abuse Services, Genesee County Community Mental Health, Genesee County Department of Social Services, Genesee County Health Department, Genesee County Medical Society, Genesee County Superintendent's Association, Genesee Intermediate School District, Greater Flint Area Hospital Assembly, Gundry Elementary School, Gundry Neighborhood Advisory Board, Hamilton Family Health Center, Mott Children's Health Center, United Teachers of Flint Michigan Education Association, and United Way of Genesee and Lapeer County.

The partners committed approximately two million dollars in personnel, resources, cash and in-kind services, with significant commitments coming from the Community Foundation of Greater Flint, Mott Children's Health Center (the operating agent), the Genesee County Health Department, Genesee County Community Mental Health, and the Flint and Beecher School Districts.

Each of the partners agreed to serve on the Policy Council and/or the Neighborhood Advisory Board and have representatives as needed on the Implementation Team, the multi-agency team which developed the Smart Start procedures and forms and meets biweekly to address ongoing operational issues.

The Neighborhood Advisory Board is composed of neighborhood residents and community supporters who meet monthly to give input on the initiative, as well as plan special neighborhood activities and efforts linked to the Smart Start Center.

The present staffing for the Gundry Smart Start Center includes a Care Coordinator, Care Assistant, VISTA Volunteer and Volunteer Coordinator. The Care Coordinator, a public health nurse with extensive experience in the Children's Special Health Care Needs program, and the VISTA Volunteer are both provided by the Genesee County Health Department. The Care Assistant, a paraprofessional, is hired through the Robert Wood Johnson grant. The Volunteer Coordinator, hired through the C.S. Mott Foundation grant, works full-time at Gundry presently, but will shift over to Dailey School part-time in the spring. The Care Coordinator located at the Dailey Center will be funded through the Genesee County Community Mental Health with the hiring being done through the Beecher School District. In April, 1993, a site manager will be hired who will work half-time at each site to oversee operations. These staff arrangements as well as the providers' arrangements have been developed through the collaborative planning process and confirmed in the interagency agreements.

How does the Gundry Center, the first to be operational for Smart Start, work to support children and their families? Families, after learning about the Gundry Family Center through community agencies, neighbors, Smart Start or school staff, visit the Center, enroll as members, and learn about program/service opportunities. The attached monthly calendar identifies a range of nonlabeling options for families, from children's health screenings each Wednesday, to youth groups, workshops, tutoring and special projects.

The more intensive services, such as care coordination and support groups, are provided as families feel more trusting and confident are willing to identify their needs to staff.

The services are provided by the various partner agencies and volunteers participating in the Smart Start Initiative. For example, a psychologist from Mott Children's Health Center and from Community Mental Health team up to facilitate a weekly grandparents' support group; a substance abuse agency provides ongoing prevention workshops; an infant specialist from Mott Children's Health Center directs a weekly youth group on food and nutrition.

The Smart Start staff works at integrating the services provided, not only by planning with the providers in advance, but by hosting brown bag lunches monthly for the providers to discuss issues of concern to both the staff and the providers. The Smart Start staff also works closely with the school staff to assist with children's needs. For example:

- Representatives of the Smart Start staff and Gundry school staff attend each other's staff meetings.
- Smart Start Care Coordinator attends the meetings of the Student Assistance Program Committee.
- Smart Start Care Coordinator and Care Assistant meet regularly in team referral meetings with the special education teacher, social worker, Chapter One outreach worker, home school counselor, student assistance program coordinator, and community education agents.
- Smart Start staff regularly supports the work of other teachers; particularly Head Start, pre-K and kindergarten. They assist by sharing Center information at the parent meetings and other school functions.

As of March 1, 1993, a total of 208 families (481 children) have become enrolled members of the Smart Start Center. The care coordination component of the Smart Start Center services potentially offers the most significant process for integrating services and empowering families. The Care Coordinator, gets better acquainted with families either through visits at their homes or wherever the family members prefer. During these visits, a family assessment is done that emphasizes the family's strengths as well as needs. An Individualized Family Service Plan (IFSP) is designed, confidentiality forms are signed and interagency referrals are made. Presently, we have thirty-nine families in care coordination. IFSP forms, developed by the Implementation Team and approved by the Policy Council, are also being used by the local Health Department's Children with Special Health Care service program and for children potentially eligible for services under Part H of IDEA program (Individuals with Disabilities Educational Act).

In the ten months that Gundry Smart Start Center has been operational, what have we observed and learned that could be helpful as you consider how to support the concept of coordinated services within the reauthorization of the Elementary and Secondary Education Act?

1. This process takes time. Each school district needs to collaborate with the other health, human services and education community partners in order to see the school-based coordination strategy as part of a larger community plan. Individual health and human services agencies do not have enough staff to meet all the requests for off-site services. There must be signed interagency

agreements to confirm goals and service commitments to schools. Collaboration should occur with a number of different groups: those involved with early education parenting groups, budget issues, health, etc., within the various agencies. Both the community and school-specific collaboration processes require extensive time for planning, at least one year. At present, there are no incentives and/or credits given for the education, health and human services leadership to collaborate, as well as no resources for someone to facilitate the planning process.

2. The process must be individualized. Each school, in concert with its school district, needs to develop its own design for how to integrate and coordinate services. The design will vary, based on the neighborhood and the family's assessment of needs, relationship to the school, availability of providers and volunteers, leadership and collaboration potential of both the principal and school staff, projects already underway in the school, and available physical space for providing services. Gundry School, for example, is a site-based managed school that is already participating in a number of initiatives and activities. These elements need to be seen as part of, and not separate from, the overall service coordination effort.
3. Extensive training must occur. Resources should be allotted for cross-agency training on such issues as:
    a. Family-centered, early intervention and prevention services.
    b. How to work collaboratively with other agencies.
    c. Appropriately sharing data - confidentiality issues.
    d. Role of neighborhoods, neighborhood assessments.
    e. Multicultural issues.
    f. Care coordination process.
    g. How to do effective outreach; getting adults and parents involved.
    h. Doing cross-agency referrals.
    i. How school-based programs can complement, not compete with each other's efforts for parent involvement.
    j. How health services relate to educational outcomes.
    k. Involving youth, males and senior citizens as part of the team.

    Training resources should include monies for materials and presenters, as well as for substitute teachers while the training occurs. Smart Start developed an ambitious training program for staff before the Gundry Center opened. Training must be an ongoing process.
4. There needs to be a close data linkage between Head Start and kindergarten programs which could facilitate transitioning for these children and their families after they leave Head Start.
5. Schools ought to have the opportunity to demonstrate ways in which the school record could be expanded to include a range of health data starting

when a child first connects to school-based services. This could be the beginning of an integrated data registry on children.

6. Compensatory education needs to be integrated into the mainstream of elementary schools. Chapter I rules regarding which schools could have a school-wide Chapter I program should be made more flexible to accommodate schools like Gundry which need the services desperately, but are above the cutoff line. Credit should be given to efforts already underway to begin integrating services.
7. There needs to be more coordination between school breakfast and lunch programs and Medicaid eligibility. Most young children eligible for school meals are Medicaid eligible, but there is at present no enrollment process which connects the two programs or makes it easier for children to become eligible based on their eligibility for nutrition programs. Incentives should be offered for school districts to develop this process with the Medicaid program.
8. Any programs or workshops scheduled for families in need must include some type of incentives, including refreshments.
9. Staff roles must be clearly defined and reassessed regularly, since responsibilities will change and need to be prioritized.
10. Outreach efforts take a great deal of time. Many families don't have working phones, don't have transportation or child care. This outreach involves a great deal more planning and connecting than was originally anticipated.
11. Government agencies need to be able to simplify their funding reporting requirements, especially as they relate to integrated services. Local finance administrators from the various health, human services and education systems need to work together on this. There also needs to be a way to give incentives in the reporting process for collaboration.
12. The best way to reach young children and their parents are through their brothers and sisters in the elementary school. The more involved and enthusiastic these children are, the more likely their parents and younger siblings will become involved, either as participants of services or as volunteers. That is why youth groups are such a critical part of our programming.
13. Many children are being recommended for special education services because they as having special needs. The special education program is often the only source of special services including counseling, testing or some equipment. Some of these children do not need to be labeled as special education students. Instead, they need attention and support. Many do not have sufficient self-esteem or coping skills. A recent survey of Gundry teachers identified the following traits of their students:

    attention deficits
    aggressive behavior - acting out
    trauma/grief
    lack of motivation
    withdrawn and depressed

Many of these children could be in small support groups after school as an alternative to special education.

14. Safety concerns are a critical issue for staff and participants. Program planning must consider safety when defining hours of operation, parking and security.
15. Resources need to be sufficiently flexible (as the Robert Wood Johnson Foundation dollars have been) to allow for informed, nonservice approaches to engaging families. Our experience suggests that neighborhood newsletter, flyers, home repair and aerobics classes, for example, are important means for developing relationships with residents.
16. The commitment of the total school district leadership - Superintendent, Board, Principal and teacher's union - to the concept of integrated services within the schools is critical if this is to be implemented beyond a demonstration period. Again, we stress that this commitment can be developed when there is enough time for collaboration and training.

Before closing, we urge the subcommittee to look closely at the relationship of health care reform to the concept of integrated services in the school setting. EPSDT (health screenings) are envisioned as the financial cornerstone of Center-based services; the gate to care coordination, outreach and follow-up services for children. In fat, discussions with the State Medicaid Office are occurring today about possible EPSDT administrative reimbursements through Medicaid.

The Michigan Medicaid program is implementing managed care in Genesee County and plans to include EPSDT as a service that only enrolled physicians can provide to eligible children. This jeopardizes the role of the school-based centers as a friendly, accessible door to services. It is critical for the subcommittee to work with the Health Care Reform Task Force to emphasize and preserve the role of schools in preventive health services delivery. Health, human services and educational leadership must collaborate at the federal level just as we must at the state and local level.

In conclusion, after working these ten months to implement the Smart Start Initiative through integrated services at the Gundry Center, it is clear that the process takes more time, energy, patience, humility, creativity and resiliency than ever imagined. There is a great deal of turf and distrust; so much so that each implementation step is very challenging.

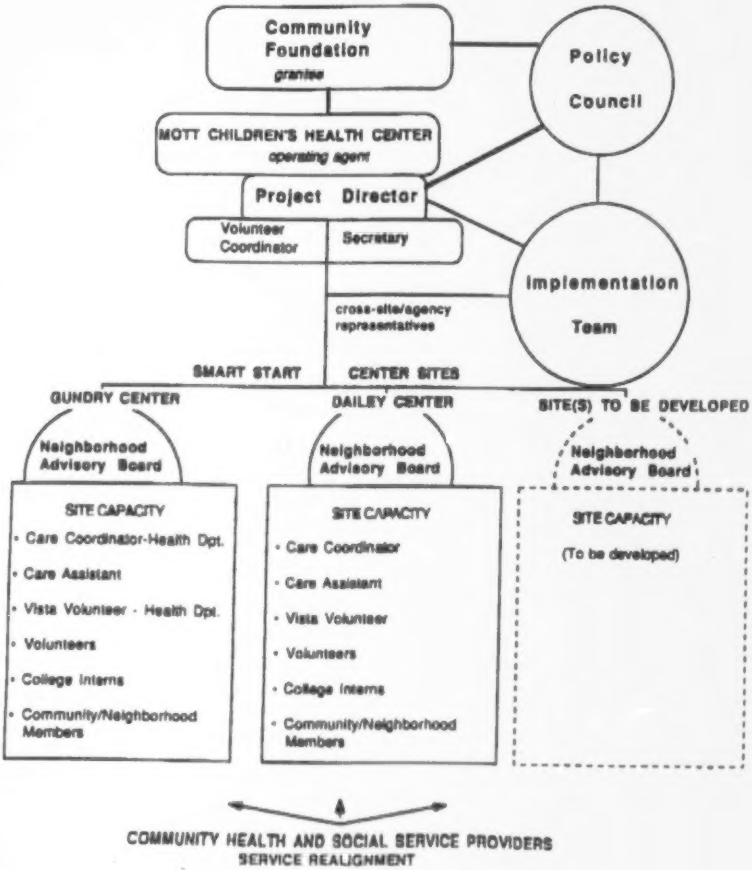
However, we are more convinced then every that our Center model has validity particularly in urban settings and can assist in reversing those rotten outcomes being predicted for our children, and the feedback from children, families and teachers is that they are grateful that the Center has been opened and that the support is making a difference for them, whatever form that takes.

In closing, it is important to keep the perspective that we have just begun. What we know now about coordinating and integrating services, while more than we knew ten months ago, is changing every day as we try to meet the needs of our children and families.

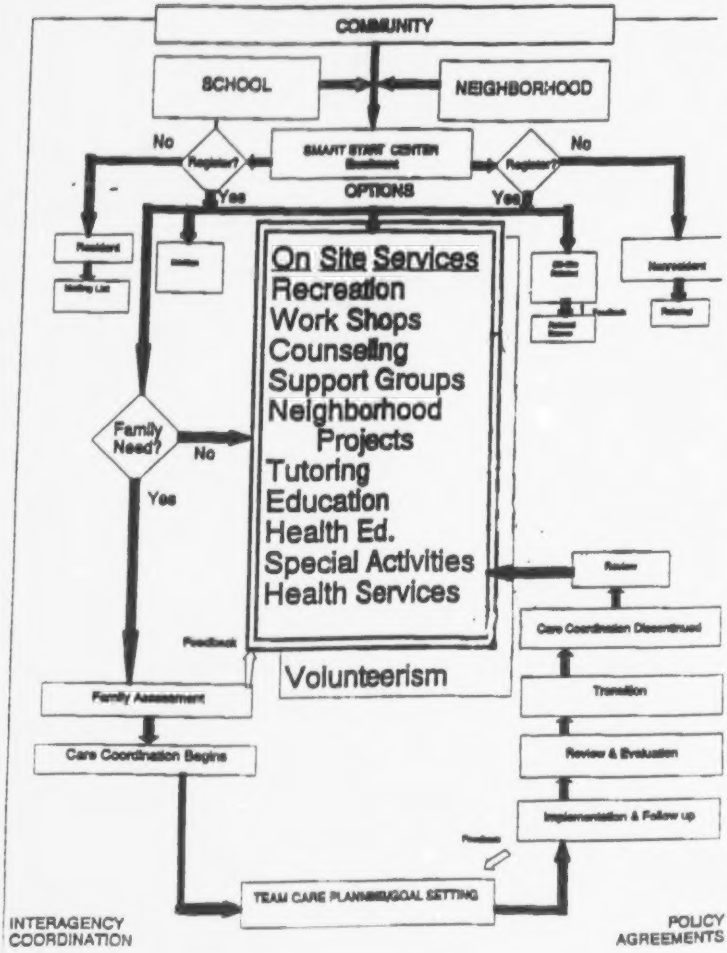
We thank the subcommittee for the opportunity to share our experiences on coordinating services, and we urge you success in your efforts at designing legislation that will make integrated school-based or school-linked services a basic component of children's educational experiences in local communities. Thank you very much.

SMART START--

A COMMUNITY STRATEGY FOR HEALTHY CHILDREN AND THEIR FAMILIES


Community Foundation
grantee
Policy Council
MOTT CHILDREN'S HEALTH CENTER
operating agent
Project Director
Volunteer Coordinator
Secretary
Implementation Team
cross-site/agency representatives
SMART START CENTER SITES
GUNDRY CENTER
Neighborhood Advisory Board
SITE CAPACITY
• Care Coordinator-Health Dpt.
• Care Assistant
• Vista Volunteer - Health Dpt.
• Volunteers
• College Interns
• Community/Neighborhood Members
DAILEY CENTER
Neighborhood Advisory Board
SITE CAPACITY
• Care Coordinator
• Care Assistant
• Vista Volunteer
• Volunteers
• College Interns
• Community/Neighborhood Members
SITE(S) TO BE DEVELOPED
Neighborhood Advisory Board
SITE CAPACITY
(To be developed)
COMMUNITY HEALTH AND SOCIAL SERVICE PROVIDERS
SERVICE REALIGNMENT

SMART START FLOW CHART


COMMUNITY
SCHOOL
NEIGHBORHOOD
No
Register?
SMART START CENTER
Register?
No
OPTIONS
Yes
Yes
Resident
Waiting List
Nonresident
Referral
Feedback
On Site Services
Recreation
Work Shops
Counseling
Support Groups
Neighborhood Projects
Tutoring
Education
Health Ed.
Special Activities
Health Services
Volunteerism
Family Need?
No
Yes
Feedback
Review
Care Coordination Discontinued
Transition
Review & Evaluation
Implementation & Follow up
Family Assessment
Care Coordination Begins
Feedback
TEAM CARE PLANNING/GOAL SETTING
INTERAGENCY COORDINATION
POLICY AGREEMENTS

MARCH 1993

NO COST FUN THINGS TO DO AT GUNDRY SMART START CENTER

Volunteer Opportunities, Information and Referral Services

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1 Youth Group I 2:30-3-30 p.m.	2 4-H E.F.N.E.P. Cooking Class 2:45-4:00 p.m.	3 Health Screenings 8:30-11 a.m.; 1-3 p.m. Youth Club II 2:30-3:30 p.m.	4	5 Grandparent Appreciation - 10 a.m.	6 Morning Recreation 10:00 a.m.-12 noon Gym
8 Youth Group I 2:30-3:30 p.m.	9 4-H E.F.N.E.P. Cooking Class 2:45-4:00 p.m.	10 Health Screenings 8:30-11 a.m.; 1-3 p.m. Youth Club II 2:30-3:30 p.m.	11	12 Grandparent Appreciation - 10 a.m.	13 Morning Recreation 10:00 a.m.-12 noon Gym
15 Youth Group I 2:30-3:30 p.m.	16 4-H/E.F.N.E.P. 2:45-4:00 p.m.	17 Health Screenings 8:30-11 a.m.; 1-3 p.m. Youth Club II 2:30-3:30 p.m.	18 Master gardener 1:00-2:00 p.m. "How To Cultivate Your Garden For Spring & Summer"	19 Grandparent Appreciation - 10 a.m.	20 Morning Recreation 10:00 a.m.-12 noon Gym
22 Youth Group I 2:30-3:30 p.m.	23 4-H/E.F.N.E.P. 2:45-4:00 p.m.	24 Health Screenings 8:30-11 a.m.; 1-3 p.m. Youth Club II 2:30 -3:30 p.m.	25 Neighborhood Advisory Board 5:30-7 p.m.	26 Grandparent Appreciation - 10 a.m.	27 Morning Recreation 10:00 a.m.-12 noon Gym
29 Youth Group I 2:30-3:30 p.m.	30 4-H/E.F.N.E.P. 2:45-4:00 p.m.	31 Health Screenings 8:30-11 a.m.; 1-3 p.m. Youth Club II 2:30-3:30 p.m.			

GUNDRY SMART START CENTER, 6031 DUPONT, FLINT, MI 760-5433
STOP BY ANY DAY FOR COFFEE AND CONVERSATION

MONDAY-FRIDAY 8:00 a.m. TO 5:00 p.m.

ALL ARTICLES DUE MARCH 15 FOR APRIL NEWSLETTER

(CAL-RB)

Chairman **Kildee**. Thank you very much. I appreciate all of your testimony. Your last point I will certainly get over to Hillary Clinton, personally. I want to make sure we don't have things drop through the cracks as we try to build a system, or systems, for health care in the country. So I appreciate that.

Our next witness, of course, is Mr. Lillard, the principal of the school that Lamar Alexander and I had the occasion to visit. We were very impressed with what we saw there. At the time I recall you were getting that one big room prepared. Has that been completed there?

Mr. **Lillard**. Yes, it is completed now.

Chairman **Kildee**. Very good. I was impressed with the fact that you weren't going to put the kids in there until you had things right, and I was very impressed with that.

Mr. Lillard, go ahead with your testimony.

Mr. **Lillard**. Thank you, Mr. Kildee, Chairman, and to the board.

I am just elated to be here. Again, as Dorothy said, we are pleased to be here today to advocate coordination services on behalf of our schools.

I would like to talk to you a little bit about—well, first, I've been with the district 32 years in Flint, and I've seen a number of changes. I was a teacher for 11 years, an assistant principal for nine, and a principal for 12.

Let me give you a little fact about Gundry School since the time I've been there. Our enrollment is 458 to 500; it fluctuates. Our percentage of parents on AFDC are 40.3 percent; free and reduced lunch, 62.7 percent; the mobility rate, moving in and out, 23 percent; our rate of retention, 11 percent.

The number of children in Gundry community 0 to 5 years of age is 550 children. We have a Head Start Program, 48 students per class; and a pre-K program, which has 50 students per class. We also have special education, EMI, LD, and EI, which means "learning disability," "emotionally impaired," "ethnically mentally impaired."

I have seen a number of things change over the years. I have seen a change coming. I don't know if everybody else saw it. And again, maybe we did, from some of the comments I heard. But we didn't do anything about it. We just kind of sat there and thought maybe it would correct itself, but it didn't, and now we are scrambling for something to do to change the course. It's too little of us; we need a giant to stop a runaway freight train.

We are losing a whole generation of children. That has become a real concern because I have a love in my heart for children, that you won't believe. But let me give you some examples of the problems that we face. Babies having babies. Sure, you've seen that. We have created a Cradle School to try to offset that problem, because we had so many children dropping out of school.

We have a three-fold purpose at our Cradle School: To relieve grandparents, because close to 40 percent of our children are being raised by grandparents. To give the young mothers, who do not know how to raise themselves, a chance to learn how to raise not only themselves, but the child as well. It also gives us an early look at the child, because we figure the earlier a child starts in school the better chance he will have. We can identify pre-K and Head Start students that we think are not going to make it. We start them from zero to four at the Cradle School and they go to pre-K and Head Start and kindergarten, straight through.

Some of our ideas at the Cradle School, we will get a chance to look at the drug-addicted babies before they become school age and use the services of the Smart Start Center to refer them for the necessary help they will need. Teachers, honestly, are not prepared to teach the learning disabilities that we don't know that are facing us.

We see drive-by shootings. The children are exposed to things like killings in the community that we were never exposed to when we were growing up. They don't sell the drugs, but they sure see everything in the streets. Children are starved for attention. In school, they come and just hug you. There may be a lot of people in their house, but it's not like a home. They don't get that much attention. They come to school and they look for it there, and we try to give it to them.

We have a lot of our children raising themselves. They have a lot of adult responsibilities. If we don't help them at this stage, we are going to be looking at a 24-hour school day, meaning housing homeless children and being there the entire day. Teachers can't teach children coming to school with that kind of mind-set.

These children need attention, understanding, structure. Often, they have no rules at home and no limits or anything. They walk the streets all hours of the night. It's nothing to see 12- and 13-year-olds walking the street 3 or 4 in the morning.

Teachers don't have the time to teach or be social workers or counselors. Most of the time, we try to use our social worker, which is geared only for special education, we are not to refer children who are not in special education to the social worker, but we do it anyway. But I'm saying, we cannot put all children in special education, just because they need a social worker.

That is why we need the support of the Smart Start Center, a model that is preventative, it is comprehensive, and it works with the parents and families well with our school and the children.

The Flint School District is focusing on a budget crisis of immense proportions. Sixty-five million has already been cut over the past few years, and now we are looking at a $10 million cut this year. I thought our superintendent was going to come with us, but right now he is in budget-cutting meetings. We don't know what that is going to result in. Most times it results in impacting on the poorest and neediest children when it happens. I see it happening across the country, even here in Washington.

We must, through legislation, keep integrated services, models like Smart Start institutionalized within the school setting, not add-ons that we cut when funding is dropped. In the 10 months that we have been in operation, I have seen an impact on our centers and families that work and need the continual provision of services and a range of services for children, their families, and the neighborhood.

Our families are elated to come up and do the programs we have, like she said. Aerobics, we offer evening classes, quilting, sign language, computer classes. I don't know if I touched on all of them, but we have recreation for the adults as well. We also have now a part-time stipend for babysitting.

We have a day care program on Saturday mornings, and it's free for the families there to bring their children from 0 to 6 months—I mean, 6 years of age, and give the parents a break from home to go shop or just sleep. They just need that break from the children. We try to provide that for the community. We also have a bingo program. Parents get involved and they want to have something to do and the school is the closest thing without the transportation to go where they need to go.

The Smart Start Center as well offers those immunizations, examinations, and dental things and care that the children need right in the building. I was listening to the gentleman about the foot problem. We can handle those right there. A lot of our children are late coming to school because they are not immunized, and because of that parents don't have transportation to get downtown, to wherever they get the shots, but now they will be offered right in the Smart Start Center, right in the building, easily accessed to the children and the parents in the community.

Ninety-three percent of our children have been immunized. They have had all of their shots and everything. We are real proud of that record, and we want 100 percent. We're looking forward to it. I don't think we can do it without Smart Start. I am elated that that program is in our building, and that's the room you were talking about. It has been renovated and it is in operation and it is working well.

Thank you.

Chairman KILDEE. Thank you very much.

Ms. Jehl.

Ms. JEHL. Thank you, Mr. Chairman.

It's a pleasure to be here this morning and to tell you about our experiences with San Diego's New Beginnings. For nearly 5 years, we have been involved with in a local effort to develop effective, integrated services for children and families through the process of interagency collaboration. I want to talk about New Beginnings today and to provide you with our recommendations concerning utilizing ESEA funding to create systems of services and support for children and families.

You have been provided with copies of my written testimony, and I will summarize some of it and skip through it so that I can spend the largest part of my time talking about recommendations for the reauthorization of the Elementary and Secondary Education Act.

San Diego City Schools is the Nation's eighth largest urban district, where we have about 125,000 students in our schools this year. Thirty-four percent of them are white; approximately 30 percent are Hispanic; 20 percent are Asian, predominantly Indochinese and Filipino; and 16 percent are African-American.

Over the past decade, growing numbers of the children we serve live in poverty in families with one adult in the home and/or in homes where English is not spoken. More than half of our students districtwide are eligible for the Federal Free and Reduced-Price Meal Program, and more than 60 different home languages are spoken by students in our schools.

Since 1988, the district has been involved in a long-term institutional change effort to improve the lives of children and families. Our partners in this process are the City of San Diego; the County of San Diego; Departments of Health Services, Probation, and Social Services; the San Diego Community College District, which provides adult education in our community; the Housing Commission, the University of California Medical School; and Children's Hospital and Health Center, as Representative Cunningham mentioned.

We have pledged ourselves, each agency, not only to help children and families, but to examine what it is that is going on in our own ways of doing business and working together, finding out what the barriers are and correcting them. New Beginnings is not a project to make additional services at school sites through a chain of service centers. It is really an effort to change the institutions.

New Beginnings was initiated by a call from the director of the county's Department of Social Services to the Superintendent of Schools, Thomas Payzant, who has recently been nominated by the President to be Assistant Secretary for Elementary and Secondary Education. The series of conversations continued to involve the leaders of all those agencies and to talk about the kinds of services that the agencies already provided and the feeling that each of the agencies had of being ineffective in what they were trying to accomplish for our communities and our families.

They settled on one elementary school, Hamilton Elementary School, in the Mid-City area of San Diego. It's a four-track, year-round school, by the way, that utilizes facilities effectively all year long. The school is closed only for about one week for cleaning in early July, and so it's natural that families in the community can utilize year-round schools as year-round service centers.

Initial activity at Hamilton was a 6-month feasibility study to determine the need for school-linked integrated services, and it was a multifaceted study. One of the most important parts of it was that we were able through electronic data matching with the Department of Social Services to compare enrollment data from Hamilton with caseload data from the Department of Social Services for AFDC, for MediCal, for food stamps.

We found through that caseload analysis that many of our families were clients of multiple programs, actually already working with multiple programs, although people from each program thought they were the only ones working with the family. There is the major coordination issue right down home.

We also found out that the Department of Social Services alone administrated more than $5,700,000 in services for Hamilton families and children, and that $500,000 of that was an administrative cost for the Department of Social Services. That raised the question that if we were spending that much money doing it, there might be a better way to do it. From the feasibility study at Hamilton, we developed some guiding principles for New Beginnings and we think they are guiding principles for interagency collaboration for children and families.

First of all, the collaboration should be school-linked, but not necessarily school-governed. We are not sure schools should run this. We can come back to that. Second, that the system of services should be focused on the family, not any single member of that family. Third, that we ought to shift as many existing resources as possible to prevention, instead of waiting for intervention after serious problems have arisen. Fourth, to fund that new system of services to the greatest extent possible with existing funding streams, rather than becoming dependent on short-term funding. Last, to adapt the application of these principles to different communities and available resources.

I am going to skip now to talk about some of our recommendations using those guiding principles for the reauthorization of the Elementary and Secondary Education Act. There are five of those.

First, if local efforts are going to be successful in improving outcomes for children, collaboration must be modeled and institutionalized at the State level. We must begin with Federal agencies to provide compatibility among Federal, State, and local initiatives, and to have the greatest possible impact on local systems.

We have spoken several times this morning about the collaboration with Education, Health and Human Services, and the Department of Labor. But we also have the Department of Housing and Urban Development, because families and children need decent homes. The Free and Reduced-Price Meal Program is administered by the Department of Agriculture, and there is a major common eligibility issue in that with Chapter 1 and school eligibility.

A stronger more concerted effort is needed at the Federal level so that States and local communities can put together coherent systems from these disparate programs, and leaders of all these Federal departments must understand and commit to that effort.

Secondly, that we think ESEA funds ought to be used as what we call "glue money" to hold together services from various agencies and systems, not project money to create a separate systems of services. We need additional funding to assist LEAs in their communities to integrate services, but the emphasis, as has been said here several times this morning, should be on flexible funding and not creating another categorical program.

As an administrator in a large, urban school district, I think the thought of another categorical program is certainly not appealing to any of us. Jacqueline Danzberger wrote about the dropout problem 5 years ago, that "Enough is known for action." I think enough is known for action about integrated services.

It's time to move beyond demonstration grants and encourage all LEAs in areas of concentrated poverty to move toward improving services for children and families. Increasing the ESEA funding levels of LEAs would allow each one to utilize a portion of the funding for systems of services and supports without weakening the program's primary focus on improving academic achievement.

It needs to be focused. Programs of integrated services needs to be focused on communities with a concentration of poverty, such as those operating schoolwide Chapter 1 projects connected with health care funding, including EPS, DT, and medicaid.

I really second the motion on getting well connected to health care reform as quickly as possible, and to provide expanded health care for all students in the school. The school with Chapter 1 schoolwide project, we think it ought to be able to be a medicaid schoolwide project.

Local communities need to be able to review the funding streams from all agencies and systems and pull together what they can from them. Better still, they need to be able to pull from a locally available source of decategorized funds, as you mentioned in Flint, to meet the needs of the children and families they serve. A designated percentage of Chapter 1 funds could be combined with funding from other agencies to help all children in a given community. Maryland has a very interesting and excellent source of decategorized funding.

We need to use ESEA funds not only to coordinate services, and that's one place—none of our agencies really train people to deal with children and families, so there needs to be some funding to coordinate services and improve overall outcomes for children.

In places where gaps exist and when you can really document that none of the agencies is providing enough existing services, we need to be able to move in with Title I funds—Chapter 1 funds, rather, and contract for those services. For example, mental health services for children are funded in a very inadequate level in San Diego County, and we are seeing kids at Hamilton Elementary School every day who are suicidal, grades K through 5, or exhibit bizarre behavior. This is a definite barrier to learning, and we need to be able to find those funds if they don't exist in any of our existing agencies.

Local communities need to be able to define which agencies and individuals should be involved in the local collaboration. A system of services is different in every State and in most agencies.

ESEA funding should be made available in combination with funding from other agencies to support a feasibility and planning process for integrated services and provide technical assistance from the Federal or State levels to assist local agencies, but not to provide them with a blueprint and a number of steps they must follow and a list of the people they must involve.

We must assist communities to think beyond one-stop shopping and create effective systems of services and supports. We found at Hamilton initially that we had a mental health program on campus, along with other ones, had different eligibility requirements. Teachers had to fill out different forms, speak a different language. Mental health language is not the same as education language. That program was actually underutilized, even though we know now how great the need is, because the one-stop shopping was still a very, very different program and it was baffling to families and to school staff alike.

Last, and most important, we really must link systems of integrated services to school reform. The primary purpose of ESEA funding is to improve academic outcomes for children, and schools must be restructured to improve teaching and learning for all of our students.

School-linked services can play an important role in helping children come to school ready to learn and in bringing parents to the school site. They alone will not be sufficient to improve student achievement. The LEAs must also seek to integrate families into the life of the school, focus on improving instruction, and hold staff from all agencies involved in integrated services, hold those staff accountable for specific outcomes.

If we are going to involve all the agencies, then the accountability must be also spread to all the agencies and not just to the schools for the kinds of outcomes we can have from systems of integrated services. For that, one of the greatest needs for additional funding is for staff development. The staff development that will help people from the agencies talk to each other, work creatively and positively with families. Our success will be measured only by the success of the children we serve. We can't settle for less.

Thank you very much.

[The prepared statement of Jeanne Jehl follows:]

TESTIMONY OF JEANNE JEHL

TO THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 31, 1993

INTRODUCTION:

Mr. Chairman, distinguished members of the committee, it is my privilege to be here this morning to talk with you about San Diego's New Beginnings. My name is Jeanne Jehl, and I am an administrator on special assignment in the San Diego Unified School District. For nearly five years, I have been involved in a local effort to develop effective, integrated services for children and families through the process of interagency collaboration. I would like to tell you today about our experiences in New Beginnings, and to provide you with our recommendations concerning utilizing ESEA funding to create systems of services and supports for children.

The San Diego Unified School District is the nation's eighth largest urban district, with an enrollment of 125,000 students in 1992-93. Our student population is approximately 34 percent white, 30 percent Hispanic, 20 percent Asian (predominantly Indochinese and Filipino), and 16 percent African American. Over the past decade, growing numbers of the children we serve live in poverty; in families with one adult in the home, and/or in homes where English is not spoken. More than half our students are eligible for the federal free- and reduced-price meal program. More than 60 different home languages are spoken by students in our schools.

Since 1988, the district has been involved in a long-term institutional change effort to improve the lives of children and families. Our partners in this process are the City of San Diego; the County of San Diego departments of Health Services, Probation, and Social Services; the San Diego Community College District, which provides adult education in our community; the San Diego Housing Commission; the University of California San Diego Medical School; and Children's Hospital and Health Center. These agencies have pledged themselves to building a responsive system of integrated services and, in doing so, to identify and overcome the barriers to effective service within each of our institutions. New Beginnings is not a project to provide additional services at school sites through a chain of service centers; it is an effort to change the publicly-funded institutions so that all children can achieve success in school and in life.

STAGES OF COLLABORATION:

Learning about each other and about our organizations:

New Beginnings was initiated by a call from the director of the county's Department of Social Services to the superintendent of schools, Thomas W. Payzant. The message was simple and straightforward, a call to collaboration: "I think we serve the same children and families. The children who are not doing well in school frequently live in families that aren't doing well in the social services system. Perhaps if we got together we could improve the way we work and make a difference for children and families." In the series of informal conversations that followed, the circle widened to include chief executives from the city, the county, the school district, and the community college district. All shared an urgent concern about the future of children in our community.

The collaborative began to focus its attention on a single area in Mid-City San Diego. The City Heights area is densely populated and multiethnic, with high rates of poverty, crime, and child abuse. The executives compiled extensive descriptions of the services that each agency provided to children and families in City Heights; none felt that their efforts were having a positive impact. Recognizing that a short-term project would not be sufficient to improve outcomes for children, the executives committed themselves and their agencies to long-term institutional collaboration and change. The process of learning about the leaders themselves and about each agency's philosophy, services and funding began in those first meetings and continues today.

In the early months, the collaboration examined several areas of mutual concern, including school attendance, teenage pregnancy, and the health needs of young children. Eventually the group focused on a mission: preventing serious problems through improved services to young children, as well as their families. The group focused initially on one elementary school in the City Heights area because it had an extraordinarily high rate of student mobility (a condition almost invariably associated with low academic achievement). Hamilton Elementary School is a four-track year-round school enrolling nearly 1,300 students in grades kindergarten through five. The student population is approximately 40 percent Hispanic; 30 percent Indochinese; 20 percent African American; and 10 percent from other ethnic groups, including white.

Planning for a new system:

The initial activity at Hamilton was a six-month feasibility study to determine the need for school-linked integrated services and the resources in each agency that could be utilized in such a system. The feasibility study itself had several parts: a social worker from the department of social services spent three months at Hamilton working with families of students who were having severe problems; public health nurses talked with families of Hamilton students to understand their experiences with the agencies, including the school, that provided services to families and children; in focus groups, agency front-line staff discussed the need for change in their own organizations; and the group studied the mobility patterns of families whose children moved into and/or out of Hamilton during a single year.

Through electronic data matching, we were able to compare enrollment data from Hamilton with caseload data from several programs administered by the Department of Social Services, including AFDC, food stamps, and MediCal. In this way, the study team was able to examine the number of families served by several programs and to develop an overall description of the amount of funding that the Department of Social Services was administering for families of children at Hamilton. That amount totaled more than $5,700,000 in 1989, including more than a half million dollars in administrative costs.

Through the feasibility study, we found that families needed help to get support and assistance from the existing system; that the system is fragmented, with no one in any of our agencies paying attention to the whole family; and that each agency (including the schools) works with individuals as though no other agency was involved, although in reality many families are clients of multiple systems. Families told us that they trusted the school as a place to get help.

Following a review of the study's findings, the group determined to operate a demonstration center at Hamilton and test the essential elements of a new system of services. The implementation was based upon a set of common principles developed and agreed to by the collaborative:

- collaboration should be school-linked, but not necessarily school-governed;
- focus the system of services on the family, not on any single member of the family;

- shift as many resources as possible to prevention, instead of waiting for intervention after serious problems have arisen;

- fund the new system of services to the greatest extent possible with existing funding streams, rather than becoming dependent on short-term funding; and

- adapt the application of these principles to different communities and available resources.

Implementation at Hamilton:

At Hamilton, the New Beginnings Center for Children and Families is located in three portable classrooms donated by the school district and remodeled with funding from the County Department of Health Services and from local foundations. The center is staffed primarily with workers who remain on the payroll of their home agencies but work in a redefined role to form a multi-agency team. Staffing and services at the Hamilton demonstration center include:

- Four Family Services Advocates to help families get the help they need, to set goals for themselves, and reach those goals.

- Expanded school registration, so that every family of children entering Hamilton becomes familiar with the center and its services.

- A full-time nurse practitioner, to increase capacity for disease prevention and health education. The nurse practitioner works under the supervision of a physician to perform CHDP (the EPSDT program in California) examinations, immunizations, and treatment of minor illnesses and injuries. Part of the work of the nurse practitioner is to assist each family to find a "medical home" outside the center.

- Mental health services for children, provided by the Union of Pan-Asian Communities through a contract with the County Department of Health.

- Parent education/adult education programs, with child care available for preschool children.

- Eligibility assistance so that families can find out what programs might be available to assist them.

- Community outreach workers to provide ongoing child development and health education, targeted to parents of preschool children in the community.

- Additional assistance from partner organizations and community-based organizations is provided by an "extended team" of agency workers who work with the center.

We have been in operation at the Hamilton Center for about a year and a half, and it is still to soon to document quantifiable outcomes. A long-term interdisciplinary evaluation is in progress, tracking academic, health, and social outcomes for students, as well as self-sufficiency outcomes for parents. The staff has built trust with families from all ethnic groups, and we are seeing large numbers of families who utilize the services of the center staff, initiate ideas for preventive services, or volunteer to assist with the work of the center.

Expanding the system:

The Hamilton center is just part of the work undertaken by the collaborative. Through a grant from the U. S. Department of Health and Human Services, and several Healthy Start grants from the state of California, New Beginnings is expanding to plan and operate programs of integrated services in other schools within the San Diego Unified School District and in other districts within San Diego County. Each program of services is different, as each community is different. An inclusive local planning process responds to the needs of each unique community, and is essential to local ownership and success.

IDENTIFYING BARRIERS

We are also working to identify barriers to effective services, and discovering that many of the barriers exist within our own agencies and systems. These barriers include:

- Funding pressures on all the agencies. Funding for all education and social services programs is inadequate to meet intense needs of the families and children we see; in addition, all our agencies suffer from a "hardening of the categories," a condition that threatens to suffocate innovation. Each small source of funding comes with its own restrictions and target population. Bringing these funding sources together to improve the lives of children and families is nearly impossible.

- It is difficult to provide preventive services in the midst of crisis. Both families and workers are conditioned to respond to crisis with short-term services. The crisis orientation tends to overwhelm the need for prevention. We truly need to be able to provide two programs at once. Resources for preventive services are almost non-existent in many of our agencies.

- Inflexible staff role definition and training limits the effectiveness of the system. School staff needs to understand the needs and concerns of families, as well as the concerns and responsibilities of social services workers. Professional training in separate disciplines can keep workers isolated and mistrustful of others who also help families. It is imperative to build staff capacity so that all of the systems can be family-centered, culturally appropriate and supportive.

- There is a need for communication and a common philosophy between schools and systems of school-linked services. Many members of school staff are unaccustomed to working with those from other agencies. Because of the intense pressures of working in schools with high levels of poverty and need, school staff may look to social service systems for instant improvement in children's behavior and academic achievement. A partnership between schools and service systems empowers families to support their children's success.

- Restrictive credentialing requirements and collective bargaining agreements with employee unions can limit flexibility in staffing new service systems, since each individual bargaining group and professional interest group strives to maintain positions and influence for those within its ranks.

- Families who need assistance from several programs are subject to multiple eligibility requirements, forcing them to cope with endless paperwork and increasing the administrative costs of all programs. In New Beginnings, the County of San Diego was able to obtain a waiver from the U. S. Department of Agriculture to provide direct certification of eligibility for the free- and reduced-price meal program for students from families receiving AFDC and/or food stamps. The county shares caseload data electronically with all county school districts, and the district's Student Information System (SIS) includes that information on the students' electronic records. Families are spared the additional paperwork; school clerks are freed to do more productive work, and children receive nutritious meals.

- Confidentiality regulations are frequently cited as a barrier to effective interagency work with clients. New Beginnings conducted an extensive survey of confidentiality regulations. The principal finding of the report was that "the law is not the sole or even the principal barrier to efficient and effective exchange of confidential information." As a result, new agreements between agencies allow for sharing information among a team of caseworkers from various programs to formulate a plan for services for a single family.

LESSONS FROM NEW BEGINNINGS: REINVENT THE SYSTEM!

- To build a more responsive and effective system of services, ongoing leadership and collaboration at the top of the agencies is necessary. The New Beginnings Executive Committee brings together top agency leadership to maintain the vision, solve problems, and reflect on progress and the challenges ahead.

- The current fragmented system cannot and will not provide the help that families and children need. At Hamilton, we struggle to combine workers borrowed from our agencies, as each agency struggles with insufficient funding and staff cuts. We supplement these positions with short-term foundation funding. But we can only make a patchwork quilt, and we need a strong safety net.

- Avoid "projectitis:" thinking about this effort as an additive model that can be implemented with a short-term infusion of funds. The goal of the collaboration is to improve outcomes for children. This is a long-term effort; it cannot be accomplished with a three-year grant.

- Residents of the communities (or customers) and agency workers need to be involved at the same time. The commitment must be owned and shared at all levels. Involving families to develop and adapt services to their communities will help us avoid recreating the current unresponsive systems.

- We must always be conscious of the need to improve services and improve the system at the same time: identify the barriers, examine the causes ; work to remove them. This is the slowest work, and the hardest, because it requires examination of our own organizations. "One-stop shopping" is not enough: co-location of separate programs still leaves families vulnerable to conflicting eligibility requirements and program designs; fragments staff communication, and leaves school staff wondering "who's on first?" When we first co-located a mental health program at the New Beginnings demonstration center, the school staff was wary of the program because of the differences in eligibility requirements and professional language. Teachers referred few children for services and the program was underutilized, although there is an urgent need for mental health services for children in this community.

BEST COPY AVAILABLE

IMPLICATIONS FOR THE FEDERAL ROLE, AND PARTICULARLY FOR THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

(applying basic principles developed through the feasibility study process and lessons of planning and implementation).

1. If local efforts are to be successful in improving outcomes for children, collaboration must be modeled and institutionalized at the federal and state levels. Agreements about desired outcomes and shared responsibility for meeting those outcomes needs to begin with federal agencies, to provide compatibility among federal, state, and local initiatives, and to have the greatest positive impact on local systems. Research tells us that the same families are clients of all the major systems: the family with children in the public schools may need WIC nutrition programs and Head Start programs for preschool children from the Department of Health and Human Services; a subsidized housing program from the Department of Housing and Urban Development to provide a decent safe place for their children; free or reduced-price school meal programs from the Department of Agriculture; and job-training and placement from the Department of Labor. A stronger, more concerted effort is needed at the federal level, so that states and local communities can put together coherent systems from these disparate programs. Leaders of all these federal departments must understand and commit to the effort.

2. Utilize ESEA funds as "glue money" to pull together services from various agencies and systems, rather than "project money" to create a separate system of services.[2] Creating another project with short-term funding will not be effective in improving outcomes; a long-term systemic effort across agencies is needed. Additional funding is needed to assist LEAs and their communities to integrate services, but the emphasis should be on flexible funding rather than on creating another categorical program.

   As Jacqueline Danzberger wrote five years ago concerning the prevention of school dropouts, "enough is known for action." It is time to move beyond demonstration grants and encourage all LEAs in areas of concentrated poverty to move toward improving services for children and families. Increasing the ESEA funding levels for all LEAs would allow each to utilize a portion of ESEA funding for systems of services and supports without weakening the program's primary focus on improving academic achievement.

   Funding for programs of integrated services needs to be focused on communities with a concentration of poverty, such as those with schoolwide Chapter I funding, and connected with health care funding, including EPSDT and Medicaid, to provide expanded health care for all students in the school. California's urban superintendents wrote in "Turning Crisis into Opportunity" their statement on Chapter I policy, that "only by concentrating the funds can we attain the rest of reform." The statement hold true for health and other preventive services as well. These communities of intense poverty exist in rural America, in small cities and large ones. These communities experience lowest levels of student achievement as well as negative social outcomes. Developing systems of services and supports in these communities can also involve other systems such as recreation, juvenile justice and gang diversion, and youth employment and training programs.

   Local communities need to review the funding streams from all agencies and systems and pull together what they can from them. Better still, they need to be able to pull from a locally available source of decategorized funds to meet the needs of the children and families they serve. A designated percentage of Chapter 1 funds could be combined with funding from other agencies to help all children in a given community.

   The case manager (or Family Services Advocate at New Beginnings) who helps families get the help they need and set goals for themselves and their children is an appropriate use of ESEA funds to coordinate services and improve overall outcomes for children. In addition, a thorough review of needs and resources in communities of poverty will reveal gaps: services that are sorely needed, but unavailable within the current system. For example, mental health services for children are funded at an inadequate level in San Diego County. At Hamilton, the staff sees children every day who are suicidal or exhibit bizarre behavior; these conditions are common in areas of high poverty, violence, and drug abuse. These conditions form a definite barrier to learning, and we think that ESEA funds can justifiably be used to contract for additional direct services to children.

3. Allow communities to define which agencies and individuals should be involved in the local collaboration. The system of services is configured differently in each state, and there are significant variations in each community. Local agencies need the flexibility to identify and pull together the resources that would most help children and families in their communities. If every LEA in San Diego County were required to put together its own "collaboration council" to involve agency representatives from health, human services, social services, probation, etc., representatives from the County of San Diego would need to participate in 38 separate collaboration councils.

   Because there is so much variation among the needs and the systems of services in individual communities, each community will need to investigate needs and resources, as we did in conducting the feasibility study at Hamilton. ESEA funds should be made available, in combination with funding from other agencies, to support a feasibility study and planning process for integrated services in eligible LEAs and local communities. Technical assistance provided from the federal level or through state education agencies, can assist local agencies in this effort.

   Our experiences in New Beginnings lead us to the conclusion that collaboration should be school-linked, but not necessarily school-governed. All public agencies and many community-based organizations have a stake in successful outcomes for children, and all have some resources to commit to that effort. To avoid undue diversion of ESEA funding from an instructional focus, we would recommend establishing a provision that ESEA funding used for developing and operating integrated services require a commitment of matching funds from other agencies.

4.. Assist communities to think beyond "one-stop shopping" and create effective systems of services and supports. If schools are to be a major source of assistance for families, they may also appropriately help shape the system of services provided. Eliminating duplicate eligibility requirements established at the federal level and reducing the categorical requirements of similar programs so they may be combined will help local agencies to provide services that meet the multiple needs of families and children. In-school programs funded under the Job Training Partnership Act, for example, serve many older youth who are also served by Chapter I. But duplicate eligibility and record-keeping requirements form a serious barrier to combining programs for intense support of students at risk of dropping out of school.

5. Link systems of integrated services to school reform. The primary purpose of ESEA funding is to improve academic outcomes for children. Schools operating ESEA-funded programs must be restructured to improve teaching and learning for all students. They must be allowed to focus their efforts on improving outcomes, not on meeting bureaucratic compliance requirements.

   School-linked services can play an important role in helping children come to school ready to learn and in bringing parents to the school site. But these services alone will not be sufficient to improve student achievement. LEAs that will successfully make integrated health and social services a part of the system of supports for children and families will also seek to integrate families into the life of the school; focus on improving instructional strategies; and hold staff from all agencies accountable for specific outcomes. A significant proportion of ESEA funding should be available for staff development, including training and experiences for school staff to work with programs of integrated services.

The assessment of our success must relate to learning outcomes for children, but benchmarks of progress will include measurements of attendance, mobility, and student behavior, all critical factors in keeping children "ready to learn." The whole system must move from documenting services to documenting outcomes.

SUMMARY:

Our specific recommendations for the use of ESEA funds to support programs of integrated services are summarized below:

- Develop and institutionalize a commitment to collaboration and change at the top of the various federal agencies so that local communities can support families and improve outcomes for children.
- Make ESEA funding for integrated services available as part of increased funding for LEAs, not as an additive, grant-funded project.
- Focus integrated services on schools with intense concentration of poverty, such as those operating schoolwide projects. Consider schoolwide application of Medicaid and in school JTPA funding.
- Utilize ESEA funding, in conjunction with matching funds from other agencies, for planning and operating local systems. Focus ESEA funds on service planning and coordination, but allow its use for direct services where gaps in the existing system can be documented.
- Build staff capacity to work in an integrated system and support and empower families. Utilize ESEA funding for staff development for this purpose.
- Develop systems of accountability for outcomes of integrated services, with emphasis on improved learning outcomes for all children.

I appreciate the opportunity to share these recommendations with you this morning.

Testimony
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Chairman KILDEE. Thank you very much.

Barbara Curry.

Ms. CURRY. Thank you, Mr. Chairman and members of the subcommittee.

I am honored and privileged to be here today. I didn't really expect to have as much fun as I'm having. It's wonderful to have people talking my language for a change—collaboration, coordination. Coordination of services is certainly something that I know a little bit about, as a result of some projects, but primarily our family care center. That is a center that is, in effect, an opportunity to provide integrated education, health, and social services under one umbrella to at-risk families in Lexington, Kentucky. A little bit different mechanism, perhaps, than what has been talked about by the other two—three panelists today.

I represent a local government social service agency, which also is a little unique, in the fact that it is a urban city county government. That also helps in our being a little bit more flexible, I think, in being able to do things a little bit differently, and perhaps come up with innovative ideas using one tax source.

First, I wanted to let you know that our local education agency, which is the Fayette County Public School System, has always been a willing partner in our efforts to collaborate and coordinate and to maximize what resources we do have in our community to meet the needs of the young people that we all serve.

Prior to the Family Care Center, and since I have been the department head, the school system has provided teachers for our day treatment program, for our juvenile detention center; support services for these classrooms; and, of course, Chapter 1 services, including tutors for our emergency shelter. They still continue to do this, and certainly their involvement in the Family Care Center is an expansion of a long-term relationship. They are one of the most significant partners in the Family Care Center enterprise.

That enterprise, the Family Care Center, is about empowering families, lifting them from the core of poverty, and creating new futures, as Congressman Baesler suggested today. When we were researching the statistics in developing the Family Care Center, we found that 12 percent of Fayette County families had incomes below $7,500. More than 2,300 families received AFDC each month. Eighty percent of low-income children we saw suffered from acute health problems related to hearing, vision, anemia, dental, and learning problems.

I think I want to stop here for just a minute and tell you a little bit—I don't want to get into our history a lot, because it takes me a while. Once I start telling the Family Care Center story, I don't want to stop, and I know we have limited time here.

But because we were involved in juvenile detention, some of those problems in our society with young people that we were attempting to provide with what I call Band-Aids instead of major surgery, we had operated a developmental child care program that primarily provided services for our protective service clients since 1972.

What we were seeing with the children in that program, we saw them coming back to us at our juvenile detention center, at our emergency shelter, at all of the programs that we were providing

Band-Aids for. We even began to see the children of those children come back to us.

Fortunately, Mayor Baesler would, from time to time, allow me to really cry. When I cried, I would suggest to him that we were putting our money in the wrong place, that we were really not helping these children. Well, at that point in time, we had them at age 4—age 18 months through 4 years old. We really weren't doing that much for them. We were not changing the problem in our community.

He listened. One day when we had an opportunity to secure some property, that's when he said, "You're always talking about those little kids. What would you do if we came up with an approach to solving their problems?" We, my staff and I, got together and brainstormed a little bit and came back to him, and he said, "That's not what I'm talking about. I want you to dream." Nobody tells people in social services to dream very often.

We went back to the drawing board. And again, in collaboration with a lot of community resources, beginning with the Fayette County Public Schools but also the University of Kentucky and all of the disciplines associated with them, our mental health service system, all of the community players that could be involved in turning children's lives and their families' lives around.

We got back to the table and came up with, finally, a dream that we were able to accomplish, and now we do have a brand new facility—well, it's 3 years old now. It was designed to accommodate a program that would provide developmental child care to children 0 to 5 years old. Eighty percent of their parents attend the program with them each day, and we see their education opportunities through pursuing either a GED or a diploma program. They are provided with employment training onsite; parenting skills, of course; and a lot of other little perks. For example, we also have an exercise room.

We have a strong volunteer board that provides one incentive that I have to tell you about. Because it is very difficult for young moms between the ages of 17 and 21 years old, with two and three children, to come to the center. It's much easier to stay home and watch TV. At any rate, they do come. Part of that is based on the fact that our volunteer board has provided what they call a country store. They have items like microwaves, diapers, things that most of us have in our households, that many of our families don't. In order to be able to secure these items, they have to have attendance. Believe it or not, that does encourage the young moms to come.

Another sort of reward system is once a month we have a luncheon, again sponsored by our volunteer board, and our kindergartners are recognized for perfect attendance. We have had that history now for 3 years, and this is what they take to school with them. When they start first grade, they are already in the habit of attending school. They encourage their moms to come because they want to get the certificate. Again, we were able to pull all of this off not because there was one entity that had the dream, but because our community had a dream.

Let me go back a little bit to my text. As I indicated in my written testimony, Congressman Baesler allowed us to dream, and we dreamed about a place that would change people's lives, that would intervene as close as possible to the beginning of life, interact and interface in the middle, assuring that our families had a chance. A chance for the infant at 6 weeks of age to be nourished in an appropriate environment and to proceed with development at the center through kindergarten; and if need be, to follow that child at least until age 12.

A chance for that child's teenage mom to receive a whole education involving academics and parenting, employment preparation, social skills, values, life endurance. A chance for all of these children to have appropriate health and dental and mental health care, and for their moms to become knowledgeable in terms of the needs of their children and themselves. A chance to change minds and, therefore, change hearts and environments.

In simplistic terms, in my written testimony I did attempt to take you through the Family Care Center with Linda and her family, and you know that we provide case management services, education to all life skills development, family planning, parenting, health and dental care, mental health counseling, employment development, and so many other support services.

Let me remind you that we have had 47 parents earn their GEDs, 17 parents earn their high school diplomas, 24 parents enroll in Lexington Community College, one parent enrolled at the University of Kentucky in an accounting program, and 13 parents attending vocational schools since our opening in 1989. These parents count among that number reported in the "Kids Count Data Book" publicized in the last few days, which we heard a lot about in Kentucky. They are a part of that. Forty-seven point seven percent of Kentucky families formed in 1990 by the birth of a child—who were a teenager, had not finished high school, or was single when the baby was born.

We also had this week a news story indicating that Kentucky's birth rate for teens between the age of 15 to 19 had increased, and Kentucky now ties with North Carolina for the fifteenth State with the highest rate of birth among this age group. At this point, however, the coordination, as you have read about, includes a lot of players to provide the education, health care, and social services.

Services that are a part of our program: our local education agency, mental health providers, JTPA program, University of Kentucky, a private hospital, a private rehabilitation hospital, the State government, the Federal Government, the voluntary sector, the business community are all involved.

We continue to look for new partnerships every day. Our program is not school-based but the LEA certainly has an important role to play. My personal opinion is that the lead agency should not be the overriding factor in designing a coordinated system. I feel that emphasis should be placed on community identification of need and the willingness of local education and social service providers to cooperate and relinquish turf when necessary to work together.

Coordination isn't easy. It takes a lot of time and a lot of commitment to clients, rather than to agency. Confidentiality is another barrier to overcome in attempting to facilitate coordinated services. The Federal Government needs to create information systems that would allow exchange of information between agencies at all levels and develop uniform eligibility requirements for system entry.

The family resource centers and youth centers created by our Kentucky Education Reform Act are other examples of coordinated services that I have to recognize in my remarks to you today. They have the potential for success and are another way of doing things.

Kentucky may have a long way to go according to the "Kids Count Survey," but we have recognized that fact for a while and attempted to create mechanisms to change. One day we are going to change our numbers, when national surveys on education and health and social services surface. I think whatever the approach, coordination is going to be an important factor. I think the Family Care Center is a demonstrable approach, and I invite your committee, your subcommittee, to visit us at anytime.

Again, I want to thank you for the opportunity to appear before you today, and I will be pleased to respond to any questions that you may have.

[The prepared statement of Barbara Curry follows:]

March 31, 1993

TESTIMONY OF BARBARA CURRY, Commissioner of Social Services, Lexington, Kentucky, before the House Education and Labor's Subcommittee on Elementary, Secondary and Vocational Education.

The Lexington-Fayette Urban County Government Department of Social Services was created in June, 1972 with the merger of the Lexington and Fayette County Governments. The Department is charged with the responsibility of administering and conducting a comprehensive social service program in the Lexington-Fayette County area.

Prior to merger there were four social service agencies in the county: The Domestic Relations Office, The Fayette County Welfare Office, Juvenile Detention Services, and The Fayette County Children's Bureau. The Department incorporated these services and formed what is now the Division of Adult Services, the Division of Youth Services, and the Division of Family Services. In addition to the activities within the Divisions of the Department, the Office of the Commissioner is responsible for purchase of service agreements with nineteen non-profit human service agencies and provides support services for The HOPE Center for the homeless and the Domestic Violence Prevention Board.

I'm here today to talk to you about the Family Care Center in our Division of Family Services, which is an excellent example of coordinating education, health and social services in a collaborative model. The Center is designed for at risk preschool children and their families to help break the cycle of poverty and encourage self sufficiency.

By way of history, the Department has operated a developmental child care center since 1972. The Center served 55 children between the ages of 18 months and 4 years who were primarily protective service clients. It was located on a campus that had a juvenile detention facility, a day treatment program, an emergency shelter and a case work unit. The children we served at the Early Child Care Center would return to us either through involvement in the juvenile justice system or as protective service clients utilizing our emergency shelter. As a matter of fact by the time the Family Care Center was envisioned, we were seeing the children of our children returning to our programs. We recognized that we were not changing lives but merely putting a band-aid on major surgery.

Fortunately for our community we had the right leadership at the top, our Mayor and now Congressman Scotty Baesler. As my staff kept me abreast of the dilemma we were facing, I attempted to do the same with our Mayor. When property adjacent to the campus became available, Mayor Baesler called me to his office one day and said something to the effect that, if we bought the property what would you do for those little kids you are always talking about. I met with my staff and we brainstormed and came up with a plan which I presented to the Mayor. He said, "That's not what I'm talking about, I want you to dream big", and indeed we did.

Fortunately for us as well, we had been involved in a piecemeal effort to provide some additional services to our preschoolers and their families. For example, we had a very small area set aside for the University of Kentucky College of Nursing and Department of Pediatrics to come in and provide some medical services to our children. A psychologist from Bluegrass East Comprehensive Care Center would come to the campus once a week and hold a parent group in the afternoon. We were taking some of our children to Cardinal Hill Rehabilitation Hospital for speech therapy. In other words we already had some experts that we asked to set at the table and help us dream. When I went back to the Mayor, I was ready!

We proposed:

... a developmental child care center that would intervene early (at six weeks)
... a parent program that would bring the parent to the Center with the child to receive their education, employment training and parenting skills
... a pediatric health and dental clinic
... support services

all under one roof. The Mayor hired an architect and we expanded our group of experts utilizing people from various disciplines and began to design a program and a building to accommodate it.

In October, 1989 the Family Care Center opened its doors in a 48,000 square foot building with a capability of providing intensive family services to 80 parents between the age of 17 and 21, developmental child care for up to 250 children and health and dental services for up to 2,000 children in our community. The dream became a reality because our policy makers were willing to invest in the future of our children and our collaborators were willing to invest their resources in a new approach to meeting the needs of our families.

The Lexington-Fayette Urban County Government issued revenue bonds for the 3 million dollars that provided construction of the facility. The base of support for the operation of the program is the local government and the budget for FY 93 is $1.8 million. These dollars are offset by a diverse funding stream and community collaboration. The Fayette County Public Schools are primary players providing teachers for the parent program and for 4 year olds and kindergarten. The University of Kentucky Departments of Pediatrics and Dentistry and College of Nursing use the Center as a teaching/learning site and operate the health facility with Medicaid funding. The Family Care Center was awarded a Healthy Tomorrows grant from the Academy of Pediatrics and the Department of Health and Human Services which provides some funding for children in need of health care who may not be Medicaid eligible. Medicaid also pays for the services of Cardinal Hill Hospital who now come to our Center and provide physical, occupational, and speech therapy for our children. Bluegrass East Comprehensive Care, our mental health service, now has four therapists who are located at the Center and recover funds from Medicaid. The Kentucky Cabinet for Human Resources (our state agency) has been an active partner in several different ways including child care reimbursements. The Cabinet applied and we were awarded one of the "New Chance" demonstration projects developed by the Manpower Demonstration Research Corporation and they currently are providing two case managers as a result of this project. Again, the Cabinet assisted the Center to acquire a demonstration grant from the Department of Health and Human Services to provide integrated services to AFDC moms between the ages of 16 and 19 years and their children. The Mayor's Career Resource Center which is our JTPA program provides an on-site employment counselor. The local health department operates a WIC clinic at the site. The Center participates in the School Lunch Program and the Child Care Food Program. We depend extensively on volunteer support in direct services and donations and contributions. The Center has an active Volunteer Board who provide incentives for our parents, have a major annual fund drive, and do other fund raising initiatives and publicity. We continue to seek additional funding sources to add to our stream.

Our community recognized that we can pay now or pay later. It is our dream that not only are we going to change the lives of those families, but by the time their children come of age, we are going to put ourselves out of business in detention and some of those other services that are costing us a whole lot more.

We think the Family Care Center is an outstanding example of coordination of education, health and social services. To prove that, I'd like to now take you through our program with Linda, a 17 year old mom. Linda is an AFDC recipient and has a 2 year old son, Ethan, and a new baby girl, Donna. Linda was referred to the Center by the University of Kentucky Young Parent's Program which provides prenatal care for pregnant adolescents. During her prenatal visits she was counseled about the Family care Center by staff in the program and a Family Care Center case manager.

Linda could have been referred by the Kentucky Cabinet for Human Resources or Fayette County School Counselors.

Shortly after she delivered Donna, Linda received an invitation to attend an orientation session at the Family Care Center and spend the day. The Family Care Center van picked Linda and her children up on the designated day and Ethan and Donna went to

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child care and Linda joined another group of young moms participating in the orientation. In the session, they were introduced to the components of the program by case managers, viewed a video on the Center, completed a TABE survey and other assessments, and socialized. At the end of the session Linda was assigned a case manager and a starting date.

On that day, Linda is transported to the Center and begins a two day orientation. Ethan and Donna are placed in appropriate classrooms. Linda is administered the full TABE and a Career Inventory Survey. She meets with teachers, the medical director, the parent resource coordinator and tours the Center. She networks with the other moms who were in her first orientation session.

On the 3rd day, Linda goes to her classroom which is determined by her performance on the TABE and how long she has been out of school.

The Parent Resource Component has five classrooms provided by Fayette County Public Schools. There is one Special Education Teacher, two Adult Basic Education Teachers, and two teachers for the high school diploma program.

Linda will work on her GED.

Phase I

The first five months, Linda will pursue her GED in the mornings and in the afternoons, participate in a Life Skills Curriculum which includes parenting classes, employability development, values and responsibility sessions, health and independent living skills.

The Life Skills Curriculum is one elective credit for Fayette County Public School but is mandatory for all Family Care Center participants.

During this Phase, Ethan's KenPac status will be switched to the Family Care Center as the provider and he will receive his acute and preventive health care. Both he and his mom will receive dental services at the Center. Ethan needs speech therapy and Cardinal Hill assigns him a therapist. Ethan is also having difficulty accepting a little sister and Linda can get out of control in responding to his aggressive behavior. They will be counseled on site on a regular basis by a therapist from Bluegrass East Comprehensive Care Center. Donna will receive her health services at the Center and the Young Parents Program will follow up at the Family Care Center with both Donna and Linda. Linda and Donna will also be scheduled an appointment with WIC at the Center. Should Linda have difficulty with her AFDC allotment an eligibility counselor from the Cabinet for Human Resources is on site once a week.

Linda's Case Manager meets with her weekly and counsels her on family planning, overcoming barriers, relationships with significant others, mental health and health problems, and anything else she may want to talk about.

Every six weeks Linda will participate in an Empowerment Meeting with her Case Manager, teacher, Parent Resource Coordinator and employment counselor. Linda is encouraged to come to the Center every day because attendance counts in the numbers of vouchers she can receive to shop in the Country Store.

The Family Care Center Volunteer Board established a Country Store with donations that are used as incentives tying the ability to buy with attendance in the program.

Linda and her family receive two meals a day at the Center and Ethan gets snacks, too.

Wait until Ethan gets to kindergarten. He too will be excited about receiving a certificate and a gift for perfect attendance at a recognition luncheon for families, sponsored by our Volunteer Board.

And there's more, the Living Arts and Science Center gives Linda and Ethan art classes and our library provides Linda and Ethan a time to read together or at least check out books. Linda and Ethan will take a field trip to the Louisville Zoo and Linda will explore the Toyota Plant in Georgetown. They will all visit the Lexington Children's Museum, go to the Nutcracker at the Lexington Opera House and be exposed to art every day at the Center.

Hopefully, Linda is now ready to move on to . .

Phase II

where she will have options. She may have been really smart and have received her GED, or she may choose to pursue a high school diploma or go off site to vocational school. This phase also enhances exploration of employment opportunities, through work experience, job shadowing, certainly more involvement with the employment counselor. Child care, transportation and support services are still provided.

Lets say Linda has been one of our positive completions. She's finished her GED, or high school diploma or is employed (part time or full time). She enters

Phase III

whether she likes it or not. Linda is an off site client. She has monthly contact with her case manager.

Her case manager is still following her and monitoring her attendance at Lexington Community College or employment or whatever. Ethan and Donna are still attending the Health Care Center but hopefully Linda has arranged off site child care.

Since we opened in 1989, we have had some successes:

- 284 individuals have participated in the Parent Education Center
- 650 children have attended the Developmental Child Care Center
- 1,500 children were seen in the Pediatric Health Clinic, 1,000 in the Dental Clinic and 112 received speech therapy
- 47 parents have earned their GEDs
- 17 parents have earned their High School diploma
- 24 parents have enrolled at Lexington Community College
- 13 parents have attended vocational school
- 93 parents are working full or part-time
- All parents currently enrolled in the program have become computer literate

Our successes have to be partly attributed to a committed, dedicated and devoted staff who become families to our families.

We are supportive of the reauthorization of the Elementary and Secondary Education Act and hope that it passes. We believe that early intervention for at risk children is the key to changing their lives and certainly that their families have to be involved if we are to have successful outcomes. We believe that we have to empower families and that we have to find ways to help families help themselves, whatever their composition. We believe that the federal government could help our families:

1. if they would replicate similar kinds of integrated service delivery system throughout the country, at the community level, emphasizing coordination and collaboration based on community need and include the LEAs and social service agencies in the process;

2. with integrated services should come uniform eligibility requirements for entry into the system;

3. also an improved system should be developed to exchange information between providers of education and social services;

4. guidelines, rules and regulations should be universal, with the same criteria for eligibility or participation; (for example, AFDC, Food Stamps, JTPA)

5. partnerships should be forged between business and government and the volunteer sector to prepare ourselves for the 21st century because these families

and their children are our future; and

6. with the scarcity of resources that currently exists, we need to continue to develop collaborative efforts to assist us in changing the lives and enhancing the quality of life of all our citizens.

Chairman Kildee. Thank you very much.

I will start with one question. I will probably direct it at Dottie first here, but all of you join in.

In Genesee County, where Flint is located, we have the Flint Board of Education, which is one governmental body elected by the people in Flint. We have the Department of Social Services, which is really a State agency. Then we have the Department of Health, Genesee County Department of Health, which is a county agency. What was your greatest hurdle in trying to bring this collaboration together, and is it still in process? How perhaps can the Federal Government encourage that collaboration?

Ms. Reynolds. Well, the greatest hurdle, obviously, Mr. Kildee and members of the committee, was that each one of these entities operates according to its own set of statutory requirements, its own set of values. There has never been any encouragement for organizations to truly collaborate. No rewards, I mean. You hear people talk about working together a lot, but there is very little in terms of reward for the line workers.

I think that one of the things that has helped us really be able to address issues, like the confidentiality issue which we have addressed in our interagency agreement, has only come about through very, very persistent and hard work and hours and hours and hours of talking through every single word of every agreement. It is doable, but it is not easy. It requires a group of people who may be staring into the abyss and refusing to jump, if you will. I mean, we don't have any choice. We have got to do good things for the children in that community.

Chairman Kildee. Do the directors, let's say, the Director of the Health Services, Bobby, and director of the Social Services Department and the superintendent of schools, do they meet together formally at a council, the agencies?

Ms. Reynolds. Yes. The Policy Council that guides the Smart Start Center is composed of those heads of the various systems involved, and that is the group that buys off on the policy. But we have put together a working group called an implementation team, which is composed of top staff members from all of those entities. The implementation team is the group that has worked out the nitty-gritty details of the collaborative agreements, and then their bosses have bought off on the agreements that have been reached.

Chairman Kildee. Mr. Lillard, are you involved in that regular coordination with the other agencies?

Mr. Lillard. Yes. I am very much involved, because we want to make sure. We want to do the best for our families, but we don't want to create any—what I want to say, we don't want to violate any of the rights of the parents or the people involved. We want to make sure when we collaborate and cross, integrate the agencies, make sure we are doing what is best for all the families. Yes, I am involved in that.

Chairman Kildee. Just a case in point, I am trying to be very specific. If someone comes into the school and that person might qualify, for example, for food stamps, that student or that family, would there be someone in the school that could note that and get them to the proper agency, the proper person?

Mr. **Lillard**. Yes. When parents come in and fill out an enrollment form, all that information is asked on enrollment when the child is enrolled. We ask all of that information: how many is in the family, whether they are working, whether they are on AFDC, or whatever. That's how we figure out the children for the reduced and the free lunch as well.

Chairman **Kildee**. What I would have in mind, ideally, is, someone comes in that front door of your school building and they bring in educational needs, they bring in nutritional needs, perhaps, they bring in maybe some mental health needs even, some health needs. Too, very often, the school says, "Well, we will take care of the educational needs." Who ascertains, or how do we ascertain, then, how the other agencies in the community can impact upon that child? Anyone may try to answer that.

Ms. **Jehl**. One of the things that we do in New Beginnings in that every family who registers, as at the Gundry School as I understand it, every family who registers a child for school goes through an extended registration process and at that time is asked to fill out—we call it a "Family Interest Survey" because we don't want to put it in the terms of, "What do you need," but to tell us about the kinds of things that they are interested in getting.

We at that time also can do a preeligibility screening for programs such as AFDC or MediCal, which is the medicaid program in California. The problem is that the real eligibility is about 90 computer screens long, and that until we get some simplified eligibility and some merged eligibility among the various programs, there is no way that we can really effectively outstation that at a school.

We can go through some initial eligibility determination with families and tell them which programs we think they may well qualify for, then make them an appointment at the Northeast Eligibility Office, get them transportation if they need it. But until we really simplify some of those eligibility programs, we are not going to be able to get that kind of responsiveness that you are looking for.

Chairman **Kildee**. Is that basically what is done at Gundry?

Ms. **Reynolds**. Yes, indeed, Mr. Kildee. At Gundry, because it is still a small demonstration program, we have been able to work through those eligibility determinations for the people in the center. I think that Jeanne is completely right, it is a morass.

Chairman **Kildee**. You mentioned one set of reports, one reporting system?

Ms. **Reynolds**. Right.

Chairman **Kildee**. Are you moving towards that and trying to encourage the other agencies to accept——

Ms. **Reynolds**. Yes. Mr. Kildee and members of the committee, we have achieved that. We have agreement between the various systems that are involved in this that we have a single intake form and a client management system, a case management system.

Chairman **Kildee**. Perhaps in Federal legislation, we should put some encouragement in for agencies to do that.

Ms. **Reynolds**. Absolutely.

Chairman **Kildee**. Ms. Curry.

Ms. **Curry**. Our situation is, perhaps, a little bit different, again, unique in the fact that isn't school-based. For example, the University of Kentucky that provides the health services onsite, they have an intake form for medical services, which is used as a part of our center intake as well. Our system is integrated to that degree.

Our mental health service, which is a comprehensive care center, they received medicaid funding but their intake is through our center. I guess because they are locating services onsite, it's a little bit different. Although, it's very difficult, nevertheless. The same thing with out school system, they provide teachers who teach out of our location. They are a part of our system, and we have developed the system that they have integrated into us, and that is a little bit different.

Chairman KILDEE. Dottie.

Ms. REYNOLDS. If I could add something, Mr. Kildee and members of the committee. One of the real challenges about this client management system is the fact that common decency, as well as the law, requires that any adults in the family about whom information is going to be shared need to sign off on that sharing. In the kinds of families that the program is dealing with where you may have a brother or someone who has a criminal record or significant substance abuse problems, sometimes that has been very difficult to achieve.

This is not easy work, and I would not suggest for a minute that we want to violate people's rights through any kind of legislation. But that is a wrinkle in this, that only the skill of human beings can address, I think.

Chairman KILDEE. I'm glad that problem has been brought to our attention, because it's something we have to work through ourselves.

Yes?

Ms. JEHL. I would like to make one more comment, though, about this, and that is, that through the New Beginnings' process we have conducted an extensive study of confidentiality regulations, and we really discovered that the law is not the primary barrier to effective sharing of information among agencies. The primary barrier is in our own minds and in our institutions' own identities and fears about sharing information and in the ways that we do business.

We have such walls in the minds of the workers in agencies because we have been trained in separate specialties, hired in separate institutions, that there is a lot more that can be done on the local level to build a real collaboration and positive sharing of information. That can be done without great legislative change. Some of it really is changing the mindset and providing the incentives for people to work differently.

Mr. LILLARD. Representative Kildee.

Chairman KILDEE. Yes?

Mr. LILLARD. I feel also that it takes time for the people to trust you. When the trust comes in, you will get the people to get involved. They don't know anything about you at first. Until they understand what you are all about, that they can trust you, only then will they get involved. And it takes time to do that.

Chairman KILDEE. It takes some time to do that and some people who, to them, become trustworthy then, right, at the same time?

Mr. LILLARD. That's right.

Chairman **Kildee**. One specific question before I go to Mr.Gunderson. Across the street from Gundry, I believe, there is a daycare center. Is it across from Gundry there?

Mr. **Lillard**. Yes. There's a church in back of it.

Chairman **Kildee**. Yes. The church, right. Now, and under our daycare program, ABC Day Care—of course we allow churches to be involved in that—when you have people coming into the school and you see need of daycare, can you refer them to the daycare center across the street?

Mr. **Lillard**. Well, the day care center across the street is not in operation yet. We are still working on the moneys to start it up and making sure we have taken care of all of the fire codes in the church, because that was one of the main things, that we had to make sure that we took care of the fire codes first. The day care that we are using right now is right in the building by the school.

Chairman **Kildee**. Okay. But you will then be in a position where you can provide and refer to daycare for those who need daycare services?

Mr. **Lillard**. Yes.

Chairman **Kildee**. Thank you very much.

Thank you for your patience, Mr. Gunderson.

Mr. **Gunderson**. No problem, Mr. Chairman. This has been an education for me this morning. It has been delightful and I want to congratulate you. While you all were making your presentations, I leaned over to the Chairman and I said, "You've done a marvelous job in putting this panel together." I said, I think part of the reason I feel that way is because they seem to agree with my conclusions in some of this.

I just hope that as each of you goes home today you will go home with the thought that, at least in my opinion, you have probably been the most impressive and the most influential panel in changing the course of the reauthorization of the Elementary and Secondary Education Act. If you question whether or not your trip was worthwhile, it was very, very worthwhile. I can promise you that I, and I know many other members and the staff, will be reviewing and re-reviewing your testimony to make sure we can follow up on what you have articulated this morning.

A couple of questions. Question number one is, I guess more of a request, if not now, later, can you provide us with what you believe is the responsibility for Federal coordination of the formula programs, et cetera, that we have to be cognizant of in order to facilitate the kind of coordination you want at the local level.

I mean, as I listened to you, it became clear to me that all of the legislation thus far is so focused on State and locals that we forgot to look at our own house here, at the Federal level, to enable you to do that. I would plead with you to take whatever time is necessary, submit that to the committee, so that we might make sure we empower you at the local level to do, indeed, what you want to do.

My second question gets at this basic issue we focused on the first group with, however, and that is, where ought the money go? To what degree ought increased funding go to a capital building of your program in a local community, to what degree ought it go to expanded services as they might exist, to what degree ought it be in a competitive grant?

I have to tell you, I've got some problems with competitive grants. Probably it's because I'm a rural guy, and I don't think some of my schools who need this, just as much as the big cities do—and I'm not against you needing it. I'm not sure that the skill of the grant writer ought to be the determining factor of who gets the money.

Tell me, where ought we take what is obviously going to be an expansion of educational funding, where ought that money go in order to achieve the kind of coordination you are talking about?

Go ahead.

Ms. **Jehl**. Thank you very much, Mr. Gunderson.

I think it needs to go, first, toward an examination of the resources that already exist in the community, what kinds of services are needed, who is already providing them, and could they be made more flexible to put them into a collaborative situation. It needs to go in some real local feasibility studies, or needs assessment, to use the education jargon, but also at the same time an assessment of resources. We don't want to have to recreate a service to put it in a school when it might be provided over there and could be moved and put together.

So assessment of needs, training, training, training. Schools aren't used to thinking of families as customers. School people see children; social services see people, see families. We need to develop some common philosophy and a way to approach families.

I, too, have some problems with competitive grants, though I come from a big city school district that has done pretty well with them. That is, I think that the need is so broad and that the capacity is there is so many local agencies, both rural and mid-size. I would hate to see some communities left out because they didn't win a grant. I would really rather see it in a pool of discretionary funds, planning funds, start-up funds. Slope it down later on, if necessary, but funds that pulled things together and trained people and then kept us focused on our outcomes.

Mr. **Gunderson**. Good.

Go ahead.

Ms. **Reynolds**. Mr. Chairman, Mr. Gunderson, I was quite struck by the fact that 10 years ago, I think if you had asked that question, I would have answered very quickly, "You should look where the need is the greatest." But this is 1993 and I concur with Jeanne that throwing money where we see great need does not always produce the best results, and that what we need to do is spend a lot more money and a lot more time in planning change and preparing those who are responsible for change.

Ms. **Curry**. Mr. Gunderson.

Mr. **Gunderson**. Go ahead.

Ms. **Curry**. I concur with everything that has been said. Again, I guess because I come from a local community and in at least addressing a particular need, I think more than anything else we need to put the dollars where the people are going to be willing to collaborate. That is and has been a problem in the past.

There isn't that initiative, I suppose, for agencies to get together. They are very, very protective of turf, I think, turf issues. I think that the money ought to go to the communities where people are willing to come together to do that planning and do the feasibility studies and to identify the needs in that community and how collaboration can address those needs as they relate to children and family.

Mr. **Gunderson**. All right.

Mr. **Lillard**. I do concur with them as well. I don't think money should be thrown at any project, but I think you need a dedicated, committed group of people that are going to make sure it works.

Mr. **Gunderson**. One final question. As we struggle with designing this statutory language at the Federal level, should we mandate, should we encourage, or should we allow every school district in the country over the next 5 years, the life of this reauthorization, to move in this area, coordination? It's a sense of degrees. Can we mandate that they all do it? Do we try to find some, you know, carrot-and-stick encouragement, or do we simply allow flexibility that says, "You decide whether you've got a problem?"

Ms. **Reynolds**. If I could respond to that, Mr. Kildee and Mr. Gunderson.

Mr. **Gunderson**. Sure.

Ms. **Reynolds**. Mandating something like that strikes me like writing traffic laws that you have no intention of enforcing, or telling your kids they have to stay in all day, and you can't stand them so you let them go out to play. In my view, it would be very beneficial if incentives were offered for districts to do this, to undertake this kind of activity. I would even go an inch further and say perhaps there should be disincentives for not moving in this direction. Over the next 5 years, it is not going to be that easy for all the zillion school districts in this country to change their heads that much.

Ms. **Curry**. I will respond by suggesting that under our Kentucky Education Reform Act, there is some mandatory statute requiring family resource centers and these service centers, which is collaboration again. I'm not sure that mandatory is what I would offer up as well. I think incentives and disincentives, as was suggested, is probably a good idea. Maybe some demonstrations, some demonstration grants, that look at doing things differently within the school system to begin with. At least that would be a start.

Ms. **Jehl**. Mr. Chairman and Mr. Gunderson, I also come down upon the side of strongly encouraging. I think by making a percentage of funding available only to LEAs that get on this road not as a demonstration grant, but as a part of the overall funding that would come to them, particularly ones who operate schoolwide projects. But they are going to need some help, because while there are a lot of leaders with a lot of capacity to do this, I think there needs to be some assistance, some ways to tell the story, some ways to convene the people. I think that may be something that needs to be also added to the legislation.

The Department of Health and Human Services and the Department of Education actually collaborated last year to bring a bunch of us together, a group of us together, from around the Nation, to put together a guidebook for local communities to actually map out the process of collaboration. I am told that that guidebook will be made available to communities in mid-April. That's a beginning. I don't think anybody's guidebook makes collaboration happen, but we really need to begin modeling it and providing assistance so that communities can pick up on it.

Mr. GUNDERSON. Okay.

Mr. LILLARD. I do think that communities that want to work for a project like that, whether they mandate every school district do the same—the needs are different in different school districts—and so I would think that the school district that had the greatest need would be the ones that would vie for that funding versus rich communities where they don't have a need for it.

Mr. GUNDERSON. Okay. Thank you all very much.

Thank you, Mr. Chairman.

Chairman KILDEE. Thank you, Mr. Gunderson.

Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman, and thank all of you on the panel for attending and giving us what I believe is very important testimony. In fact, I hope soon we will find the case where you are the rule and not the exception.

I have a question regarding what we face as people here voting for moneys and trying to make it less difficult for you to be able to run your programs and coordinate your services.

Given our constraints—and we know that we cannot provide all the moneys that you need, and we probably will not within a year undo all the regulations that make it difficult for you to function—if you were where we are and you had to vote for some measure or propose some measure that was very discrete, what would it include? Could you tell us one or two things that we could work on this year that we know we could get bipartisan support for this to pass?

Obviously, some of us would like to go a lot farther than others would and try to coordinate the services, but what discrete tasks or assignments can we take today that we can pass tomorrow? Even if it's as simple as saying increase Chapter 1, 5 percent versus the 50 percent that we would like, or maybe it's just undoing a particular regulation that you've had to deal with that constrains social service agencies from working with educational agencies.

Mr. LILLARD. Excuse me, Mr. Chairman.

We have looked at the regulations of Chapter 1 moneys. I think there are Federal guidelines, and there is only so much you can do with it. We thought maybe there were some other ways we could use that funding to help in the school system versus just for Title 1 or Chapter 1 children.

Chairman KILDEE. Would the gentleman yield on that point? I think you raised a good point. I will give you all the time you want.

Mr. BECERRA. Of course, Mr. Chairman, of course.

Chairman KILDEE. You know, there are various avenues which we can pursue encouraging this. I think we probably all agree that encouraging is the way to go, and I'm glad Mr. Gunderson raised that point. The present plan is to run two school bills this year, the reform bill, with which I know Mr. Riley and the President are working on along with Mr. Ford and Mr. Goodling, do something in there on systemic reform to encourage SEAs and LEAs to do this when they look at their systemic reform.

We could probably do something in the ESEA bill within Chapter 1. These are just thoughts I'm throwing out here now. We could perhaps—I'm just kicking around some ideas—encourage them to do this by offering maybe a little more regulatory flexibility if they did do this. That's three things that have occurred to me as we have been talking through this. That might be some approaches.

Dottie.

Ms. **Reynolds**. Yes. Mr. Kildee and Mr. Becerra, I would return to my plea that one of the really important things that you all can do is to make sure that these issues get included in the health system reform legislation. You are the only ones who can do this. I mean, my sense is as this sweeps forward, so much attention is going to be paid to medical reimbursements and all the convoluted doctor and hospital-related issues, that this could get lost. I would ask that you pay particular attention to that.

Mr. **Becerra**. If I can add to that real quickly. I believe we are meeting, the members of the committee are meeting, with Mr. Ira Magaziner. This afternoon, is it?

Chairman **Kildee**. Yes, it has been scheduled. I understand that it may not be on, but I'm not sure. But I think what we can do, without objection, direct the staff to prepare a letter from this committee, this subcommittee, to Hillary Rodham Clinton asking her to bear in mind this area of health care when they draft health legislation. We can have staff do that.

Ms. **Reynolds**. Mr. Kildee, our very modest-sized community foundation decided a couple of years ago that, given our very limited discretionary resources, the best use we could put them to, one of the best uses, was to provide support for programs and services that benefit children under the age of 10. We feel in terms of investing in the future of the Flint community, we can get the most out of our money by putting it in the lives of very young children. I think the same analogy holds true for the rest of the country.

Chairman **Kildee**. Mr. Becerra, you still have time.

Mr. **Becerra**. Thank you. I welcome anyone else on the panel to comment.

Yes?

Ms. **Jehl**. Yes. Mr. Becerra, there are a couple of things in relation to the reform of Title 1 that I think—Chapter 1 that I think would be particularly helpful in this area. One of them certainly is to remove the disincentive for improved outcomes.

Mr. **Becerra**. For what?

Ms. **Jehl**. Central to the whole need is to buy into a system that will measure itself in terms of outcomes, and the perversity of Chapter 1—when if kids get better, the money goes away, the poverty remains, the needs remain. That's first.

Second, we really have to restructure Chapter 1 so that it deals with system reform in schools, so that we don't take kids out, the very kids that we work with so much in the health and human services areas, pull them out of classes and provide them with lower class instruction.

There has to be a whole different look at what a school for serving low-income children and families would look like. That is, the attention to professional development, not only for teachers but for other people working in the system; that's better links with families so that we can educate families, as you are; and to make links at least with Chapter 1 without taking away that real strong instructional focus.

Ms. **Curry**. I guess that the thing that I have to add—and I'm sure that that's not something that you could do overnight, but I certainly hope that you will, in your role, consider. We have got to do something about having universal guidelines, rules, and regulations as they extend throughout all of our programs: AFDC, food stamps, JTPA, all of that. If you can work on facilitating something like that, that would be one thing that I think would make, at least my system, work a lot better.

Mr. **Becerra**. You're talking about a thread that runs through all the different agency regulations?

Ms. **Curry**. Right. That is uniform, that makes——

Ms. **Jehl**. Eligibility.

Ms. **Curry**. [continuing] easy access to the system for everybody.

Mr. **Becerra**. If I can just add to the question, you have given some ideas and some of them, as the Chairman has indicated, are probably already on the burner for discussion. I would hope that you would do the following. This is something I always tell people who I know well who have asked me to write them a letter of recommendation, "Write it for me, and I will issue it under my letterhead."

If you have some specific ideas on Chapter 1, how we define it, how we make sure that the funding isn't so restricted, how we change the guidelines to make sure that there is uniformity for all the different agencies, write something for us. I would be willing to look at it.

They are good ideas, but when I ask you about specifics that we could actually propose, I say that because we throw around a lot of very good ideas; and oftentimes, they never get caught. I would hope that what you might be able to do for us, because oftentimes we don't, even with our staffs, have the chance to put everything down in concrete fashion.

If you would consider perhaps putting that idea that you just spoke of down into some very concrete terms—in fact, if you wish, into legislative language. That way you could use it for a bill. I think some of the ideas, as I said before, are already in the works. But it would not hurt, if you have something in mind, that you give us the specific language.

Let me turn, Mr. Chair, if I may, to the last question I have, and it relates to language minorities. I know in San Diego it is a big problem. Fifty percent of, I guess, the students that you serve in the New Beginnings Program are Latino and Asian. I don't believe anymore that when I speak from Los Angeles I speak just from my district. I know that you can go anywhere—Wisconsin, Kansas, wherever you go—and you are going to find language-minority children.

How do we deal with the fact that there will be children who are coming into the system, this system, the at-risk—not only the children, but the parents—and it is very difficult to communicate with them, let alone provide them the service to try to beef up their education?

Ms. **Jehl**. Thank you, Mr. Becerra. That's an issue that we deal with constantly at New Beginnings. We think it's very important not only to work with languages, but also with cultural differences so that systems of services are responsive to families. There is no use in integrating a system that still isn't responsive. That's one of the real issues is to make sure that the systems we create are better because they are culturally compatible and culturally responsive to families and parents also.

We are constantly working to meet that need by making sure that our staff, the staff at New Beginnings includes Latino staff, Asian staff, African-American staff. Because Hamilton Elementary school enrolls all four. And that, for example, the Southeast Asian family services advocate found that Asian families weren't coming to the center. That's not something that's comfortable for them.

They began to call them and ask them to talk with them on weekends, when it seemed more comfortable culturally to talk with them, rather than coming to a big center from the county agencies. So he made sure his hours were flexible, so that he can meet with them away from the center in their homes, in their religious and community groups.

We make sure that we are hiring outreach workers, paraprofessionals, who live in the community so that we have the access to families of people who go into the community, speak the language, know the culture, know how to approach families. More and more as we recreate, reinvent the system, which is what we need to do, we need to reinvent the system with that kind of diversity and sensitivity in mind.

Mr. **Becerra**. Do you believe that we should have language in any legislative proposal—and I'll ask it the way Mr. Gunderson asked it—that mandates, encourages, or allows the issue of addressing the needs of language-minority children to be placed in the legislation?

Ms. **Jehl**. I think we should strongly encourage it. I'm wary of mandates. I'm wary of mandates, because I know at the local level that they always encourage us to follow the letter of the law and not always the spirit. I would really look for strong encouragement; for incentives, particularly to hire people from local neighborhoods as part of an empowerment approach and a career-ladder approach so it's not just people coming in from outside, working in these areas. We are all doing it, and I think we agree that it is a very, very important thing to do.

Mr. **Becerra**. I know in Flint the language-minority population is constantly growing as well. I don't know if you encounter much of the problem at this stage with home language of the children. I don't know if you have any comments on that particular issue?

Mr. **Lillard**. We have a magnet school that addresses strictly that, but there are other elementary schools and junior and senior high schools that have the language thing so they can now have that ability to now speak in their own language as well. When you are coming in new to the system, then these children are recommended to go to Washington Elementary School where we have teachers who teach foreign language there for them.

Mr. **Becerra**. Mr. Chair, I've actually thought of one last question and if I could ask it?

Chairman **Kildee**. One thing before you do that, I've been invited to the Cinco de Mayo celebration at Washington School in Flint, so I will be there for that.

Mr. **Becerra**. Please invite a number of us. Maybe we can all make it.

A final question. Is it Jehl or Jihl?

Ms. **Jehl**. Jehl.

Mr. **Becerra**. Ms. Jehl, on page 4 of your testimony in identifying barriers, the first, second, third, fourth, fifth point, "Restrictive credentialing requirements and collective bargaining agreements with employee unions can limit flexibility." It raises a question because I know what teachers say and others who are unionized say when it comes to undoing collective bargaining agreements or trying to provide that flexibility at the expense of collective bargaining agreements.

I agree with you that you have to make sure if you're going to try something new, you have to undo some of the barriers. How do you allay the concerns of those who fought very diligently for collective bargaining agreement rights and privileges when it comes to trying to accommodate a program like yours?

Ms. **Jehl**. This is a tough one, and let me give you an example that might clarify it a little bit. Because nurses, for example, our school nurses, school nurse practitioners in our State, they can be family nurse practitioners, they can be pediatric nurse practitioners. The State Education Code says that some things can only be done by school nurse practitioners. Yet, in one of our programs of integrated services, Children's Hospital and Health Center employs the physician and should also employ the nurse, for medical liability issues.

The question then is, do we cut a bargaining unit position in city schools, do we hire a nurse practitioner from Children's Hospital? The issues are compounded by the fact that the needs are so great when the money is so low and we may have to cut positions. I don't have a real concrete recommendation on it.

I know that as we look at overlapping services, we are going to need to look at flexibility in numbers of bargaining unit positions in all our agencies. That has to be allowed for in negotiations with all of our agencies. That says to a limited extent we may be bringing people from different bargaining units together and asking them to work together. It's a difficult issue, and I recognize the sensitivity of not wanting to dilute that kind of control. At the same time, there are also different codes from the State that come into collision.

Our union, by the way, the San Diego Teachers Association, is extremely supportive of getting into integrated services and has been very, very helpful to us in talking about that and in trying to work that through with us. I think you find when you incorporate them in the process, that they do cooperate as much as they can.

We work very directly with them.

Mr. **Becerra**. Thank you very much, all of you, for your testimony.

Thank you, Mr. Chairman.

Chairman **Kildee**. Thank you, Mr. Becerra. Thank you very much for your excellent line of questioning.

I want to thank our witnesses this morning. You know, my hope is that 1993 will see the most significant development of the Elementary and Secondary Education Act since its beginning in 1965. If we succeed in that, this panel will have played a major role in that. I am enormously pleased with your testimony today. You have really added a great deal of knowledge, information, sensitivity, insight, just a whole litany of words. This has been one of the best hearings that I have had the occasion to Chair in my many years in the Congress, and I really appreciate it.

We will keep the record open for 2 additional weeks for inclusion of any additional testimony or records.

Thank you very much. We will stand adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned subject to the call of the Chair.]

[Additional material submitted for the record follows.]

EDUCATION WEEK
COMMENTARY

Putting People First Means Connecting Education to Other Services

**By Margaret Dunkle
and Michael D. Usdan**

Michael Gibbs

Margaret Dunkle is director of the Policy Exchange at the Institute for Educational Leadership. Michael D. Usdan is president of the Institute for Educational Leadership.

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> *Government fails when our schools fail . . . [E]ducation today is more than the key to climbing the ladder of economic opportunity; it is an imperative for our nation.*
>
> —from *Putting People First,*
> by Bill Clinton and Al Gore

President Clinton and his Cabinet have a unique opportunity to revitalize education as the engine of our democracy. But, to do so, they must look holistically at children and families, use the federal bully pulpit to provide leadership, and then move beyond rhetoric to tackle the hard work of making the current federal patchwork of education, health, social-service, food, housing, training, and income programs more coherent and effective.

Mr. Clinton knows that a child who needs glasses and cannot see the blackboard will not be a good learner. A child who is hungry lacks the concentration to be a top student. A child who is homeless will have difficulty doing homework, if, indeed, that child is in school at all. A child who lives among drugs and violence at night is ill-prepared to flourish academically during the day. And a child who doesn't learn today won't earn tomorrow.

All families have multiple needs and the number of families that need a helping hand is increasing. More than two-thirds of children had working mothers in 1990, compared with 56 percent a decade earlier. The figures are almost as high for women with children under age 6: Sixty percent were in the paid workforce, up from 46 percent 10 years before. Further, more than 20 percent of U.S. children live in poverty, including close to half of female-headed families. Poverty is not just a core-city issue: Well over half of low-income children live in rural and suburban areas.

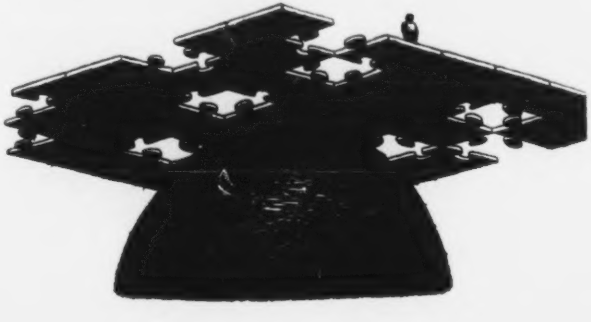
A variety of programs help low-income families. For example, a family of three (a mother and two children) with a poverty-level income of $10,000 might well need help from a dozen different federal programs. In the education arena, the children could receive supplementary educational services through Chapter 1. In other arenas, the family would also be likely to qualify for:

- Coupons to buy food through the Food Stamps program,
- A place in public housing or vouchers toward rent,
- Help finding a better job through the Job Training Partnership Act,
- Health services through Medicaid, and
- Tax refunds available to the working poor.

Children without food, shelter, health, or basic income are set up for educational failure. *Yet the federal programs that address these needs are scattered among nine different Congressional committees and six different departments of the executive branch* (the Departments of Education, Agriculture, Housing and Urban Development, Labor, Health and Human Services, and Treasury).

Making sense out of the Byzantine eligibility requirements and administrative quirks of each of these programs is a management nightmare for individual families and communities.

It is why the Institute for Educational Leadership recently launched the Policy Exchange to provide a forum for policymakers to explore collaborative approaches. And, more importantly, it is a critical policy challenge to President Clinton and his Cabinet.



Coordinating health and social services so that children can learn is a special concern of Secretary of Education Richard W. Riley. Of course, schools cannot—and should not—do it all. But he learned as Governor of South Carolina that piecemeal approaches to the inter-related problems facing families produce piecemeal results.

States from Secretary Riley's own South Carolina to Kentucky and Oregon are already experimenting with ways to put educational reform in the context of all of the needs of children, not just the three R's. And communities from Savannah to San Diego and Tucson are struggling to make the federal and state hodgepodge of programmatic pieces fit together.

These grassroots efforts have shown that, to be effective, services need to come to people. This means focusing on where people work, where they live, and especially where children go to school. Schools are often the only stable institution that reaches almost all children. Even when school-linked services are cumbersome, they are often the best, and sometimes the only, option.

There is no quick fix to the complex social and educational ills that face our country. But there are some things that the new President and his Cabinet can do right away to set a more coherent course.

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To 'Put People First,' Connect Education, Social Programs

First, provide leadership and use the federal bully pulpit. A visible and vocal focus by the President and his Cabinet on having programs strengthen children and families would provide a special boost to the many states and communities, from Massachusetts to Missouri to California, that are already working to link programs and people more effectively. Federal leadership would provide a catalyst for action where turf and institutional inertia have stalled progress towards making programs fit together more sensibly. It is important for the President to set this tone quickly and decisively, before his appointees are constrained by the limited perspectives of their agencies.

The President has chosen impressive key Cabinet secretaries who could help him provide this leadership. As Governor of South Carolina, Secretary Riley demonstrated his clear understanding of the relationship between education and other services in building strong communities—and the relationship between strong communities and a strong economy. Donna Shalala, the new Secretary of Health and Human Services, is a national leader in education as well as children's issues.

Michael Gibbs

Then, go beyond rhetoric and act. Revamping programs to make them make more sense will require tedious analysis and tough choices. It means revisiting and perhaps radically revising funding streams and eligibility requirements. And it means including new players in the decisionmaking process. For example, the U.S. Education Department should be a partner as other departments move ahead on policies that affect students. Upcoming legislative windows of opportunity for collaboration include Congressional review of key laws that expire in 1994 and 1995, including Head Start, Food Stamps, and several major block-grant programs. It will also be important for the Education Department to work with the White House and the U.S. Department of Health and Human Services so that strategies for revamping the national health-care system make sense for students and draw on the lessons learned from school-linked health services.

The most immediate legislative vehicle for educational action to encourage collaboration in states and communities is the upcoming Congressional reauthorization of the Elementary and Secondary Education Act, which includes the $6.7 billion Chapter 1 program for disadvantaged children. We are not suggesting setting up more bureaucratic structures or creating a separate categorical program called "collaboration," but rather weaving incentives for holistic state and local approaches throughout the law. For example, schools that effectively link education and other services for low-income children could be tangibly rewarded with more money, more flexibility, or waivers from troublesome regulations.

Other departments could and should join with the Education Department in reshaping parts of E.S.E.A., with an eye toward reducing conflicting definitions, standards, and procedures among programs, all of which, after all, serve largely the same children and families. For example: Should all children in Chapter 1 schools be automatically eligible for Medicaid? And how can reporting and accountability mechanisms be made more consistent and less cumbersome, with more focus on outcomes and less on process?

Similarly, the 1994 Congressional reauthorization of the Individuals with Disabilities Education Act provides a golden opportunity to make it less cumbersome for children with disabilities, and their families, to receive health services and other needed help.

There is also much that can be done administratively, without legislation. For example, President Clinton could create a Family Council and charge it with breaking the interdepartmental gridlock that today paralyzes the well-intentioned administration of piecemeal governmental programs. This council would include the 13 Presidentially appointed policymakers across six departments who collectively administer most federal programs affecting children and families.

To be effective, this Council would require continuing unequivocal support from the President and his Cabinet secretaries. It would have to be coordinated by the White House, not one of the participating agencies, and be led by someone who understands that the key clients of all of these programs are children and families, not schools, organizations, agencies, farmers, developers, or other entities that administer programs and compete for funds.

Our work has shown that the Congress would be receptive to, even welcome, strong leadership from the Clinton Administration to impose some sense on the crazy-quilt of federal programs affecting children and families. What better way could there be for the new Administration to follow through on its promise of putting people first? ■

THE IEL POLICY EXCHANGE

THE INSTITUTE FOR EDUCATIONAL LEADERSHIP, INC.

EXECUTIVE SUMMARY

SOLVING THE MAZE OF FEDERAL PROGRAMS FOR CHILDREN & FAMILIES

PERSPECTIVES FROM KEY CONGRESSIONAL STAFF

Most federal and state programs for children and families are organized to fit within the jurisdictions of specific Congressional committees and Executive Branch departments, not the more complex realities that face today's children and families. To explore this maze of federal programs, the Institute for Educational Leadership's Policy Exchange held two round-table seminars in December 1992. Seminar participants were an eclectic and bipartisan cross-section of key Congressional staff responsible for a wide range of programs, from Aid to Families with Dependent Children (AFDC) to the Earned Income Tax Credit (EITC), Chapter 1 and Food Stamps.

During these discussions, participants candidly and constructively shared their perspectives. ***While this executive summary and the full report on the seminars are written in a conversational tone and often use the first person ("I," "We") to convey the energy and openness of the discussion, the specific items are not quotations: they are composites and summaries of the varied points of view expressed.***

What Are the Symptoms of Fragmented Federal Programs for Children and Families?

There are too many different programs run by too many different agencies.

Programs don't fit together to meet the needs of real people.

Federal programs treat states like children. The federal government micromanages and doesn't allow for flexibility.

The federal bureaucracy is in gridlock.

Programs reward the wrong behaviors—of both recipients and administrators.

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We don't speak the same language, even though our programs serve the same people.

You have to be a great manager to be poor.

Why Are Coordinated Services for Children and Families So Rare?

We see the trees, not the forest. There isn't a clear federal vision that unifies all of these programs, even though they serve largely the same people.

People at the federal level don't understand the problems and issues facing states, communities and families.

Turf—state and local programs compete for funds and visibility.

Turf—the Congressional committee structure makes fashioning comprehensive programs difficult.

Turf—Special interest groups fight to preserve "their" programs.

Members of Congress get credit for specific bills—not for looking at the big picture.

The more we target the most needy, the more complicated programs become.

Fragmentation can sneak up on you. Once a program is labeled "successful," Congress asks it to do more and more—gradually loading it down until it isn't so successful.

There is too much to know. You can't keep up with it all. And it's hard for us to see the other guy's perspective: each of us was trained as a specialist.

Most people don't understand what these programs actually do. They think they are a lot more generous than they actually are.

There hasn't been much leadership on programs for children and families.

What Could Congress Do to Improve Federal Programs for Children and Families?

Do for children what we did for the elderly.

Use the laws that are up for reauthorization—or that Congress will be considering anyway—to reward collaboration and coordination.

Be more disciplined in the appropriations process.

Pass separate bills that promote coordination and collaboration.

Make federal funding more flexible. Use federal waivers—or block grants or revenue sharing—to give states and localities more flexibility.

Sunset all programs, including entitlement programs. Or at least get rid of programs that are ineffective or outdated. And eliminate or combine small programs.

Repeal most of the categorical programs. Instead, use that money to provide direct cash assistance or vouchers so that people can pay for services they need.

Use the Congressional reorganization to prod Congress to deal more coherently with issues affecting children and families.

Be adventuresome—do a big bang restructuring of federal programs affecting children and families.

What Legislative Provisions Might Promote Coordinated Services for Children and Families?

Put services where people are—where children go to school, where families live, where people work and in community centers.

Reward rather than penalize states, communities and providers that operate efficiently and effectively.

Use federal money as a lubricant for flexibility.

Revamp definitions, eligibility requirements and procedures across programs and committees.

Reward outcomes, not processes.

Promote interdisciplinary training.

Fund staff to build bridges across agencies.

Run pilot programs without regulations as a test.

What Can the Clinton Administration Do to Make Federal Programs for Children and Families More Coherent?

Have federal departments and agencies work together to develop policies and legislation.

Revamp the audit process.

Have the departments follow through on coordination initiatives already started.

Strengthen the research and planning staffs in OMB and the departments.

Most importantly, the new Administration has to take the lead on coordination across committees and departments.

* * * * * * * *

While the seminars produced a flood of sometimes contradictory and always challenging ideas, they also produced some areas of consensus:

> It doesn't take a medical degree or a law degree to diagnose the critical condition of federal programs for children and families. The symptoms are numerous and painful.
>
> The barriers to coordinated services for children and families are substantial. A key problem is turf.
>
> Congressional strategies to make programs for children and families more effective and efficient could range from tinkering around the programmatic edges to a big bang restructuring.
>
> There is no dearth of legislative ideas for promoting collaboration and coordination at the state and local level. The tough part is structuring provisions that will work in states as varied as Florida, Michigan, Mississippi, Nebraska, Oregon and New Hampshire.
>
> Some changes don't require legislation. The Clinton Administration could do some things right away.

Making programs for children and families work better is neither a partisan issue nor a concern of only a couple of Congressional committees. And, while there is no quick fix, now is the time to tackle the issue. When people talk about "government not working," they are often thinking about the well-intentioned but overly complex social programs that bounce a family in distress from agency to agency. The Clinton Administration has a unique opportunity to exert much-needed leadership to impose some sense on the crazy-quilt of federal programs affecting children and families.

Copies of the full report on the December 1992 Policy Exchange seminars
(Solving the Maze of Federal Programs for Children & Families: Perspectives from Key Congressional Staff)
are available for $10 pre-paid from the Institute for Educational Leadership, Suite 310,
1001 Connecticut Avenue, NW, Washington, DC 20036 (202) 822-8405. Volume discounts are available.

1990

INTERGOVERNMENTAL/INTERAGENCY POLICY EXCHANGE
THE INSTITUTE FOR EDUCATIONAL LEADERSHIP, INC.

ANSWERS

HOW MUCH DO YOU KNOW ABOUT FEDERAL PROGRAMS FOR CHILDREN AND FAMILIES?

1. *c.* Chapter 1 is a federal program to give a boost to educationally disadvantaged children. Chapter 1 funds ($6.7 billion in 1993) can be used for services (such as supplemental instruction in reading and math) in pre-schools as well as elementary and secondary schools.

2. *a.* Food Stamps has the largest federal appropriation, $28.1 in FY 1993. The AFDC budget is second largest, with $14.9 billion in federal funds and $11.5 billion in state funds. The WIC appropriation is $2.9 billion and the Head Start appropriation is $2.8 billion.

3. *c.* No one really knows yet the degree to which the Joint Committee on the Organization of Congress will address coordination of programs affecting children and families. Time will tell. . . .

4. *b.* "JTPA" stands for "The Job Training Partnership Act," a $4.2 billion federal program that provides training, education, help finding a job, counseling and other services.

5. *c.* Fifty-six percent of the people eligible for WIC actually got food help through this program in 1991.

   Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: 1992 Green Book*, page 1688.

6. *d.* Twenty-nine percent of three-to-five year olds poor enough to qualify for the program participated in Head Start in 1992. Although final figures are not available, this percentage is expected to increase to 30-35 percent in 1993.

   Source: Anne Stewart, Congressional Research Service, "Head Start: A Fact Sheet," *CRS Report for Congress*, January 22, 1993, page 2.

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7. *d.* All of the first three statements are why the IEL Policy Exchange compares collaboration across committees, agencies and disciplines to "dancing with an octopus":

   Each agency or program is like a tentacle of an octopus, connected but often not coordinated,

   The old ways of moving no longer work: you have to learn new steps to dance with a creature that has more than two "feet," and

   You can't move ahead if each tentacle goes off in its own direction.

8. *b.* In 1992, 4.7 million households received rental subsidies under the Section 8 program.

   Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: The 1992 Green Book*, page 1678.

9. *c.* $13,950 is the official OMB poverty income for a family of four. Some programs, such as Food Stamps, are available to any family that falls below this poverty level. For other programs, the income cutoffs are higher. For example, under the WIC program, women with income up to 185 percent of the poverty level ($13,950 X 1.85 = $25,808 for a family of four) are eligible for food assistance and nutritional screening.

10. *a.* The most that a family of three (a mother and two children) living in Mississippi could receive each month as an AFDC payment in 1992 was $120 per month, about $4 per day. Across all states, the median monthly payment for a family of three was $370, about $12 per day.

    Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: 1992 Green Book*, page 638.

11. *b.* The Child and Dependent Care Tax Credit is the largest federally funded child care program, with an expected cost of $2.7 billion in 1993. *Unlike other federally supported child care programs, this program only benefits people who make enough money to pay taxes: it doesn't help people who are very poor.*

    The Social Services Block Grant program, also called Title XX, has a 1993 appropriation of $2.8 billion, but only part of this goes for child care.

    The Child Care and Development Block Grant is much smaller, with a 1993 appropriation of less than a billion dollars.

12. *d.* EPSDT is the part of Medicaid that applies to children under age 21. EPSDT stands for "early and periodic screening, diagnosis and treatment." "EPSDT Services" or "screens" include a comprehensive health and developmental history, a comprehensive unclothed physical examination, appropriate immunizations, laboratory tests and health education.

13. *c.* On average, the federal government pays 50 to 57 percent of the cost of Medicaid and AFDC. The states pay the other 43-50 percent. Specifically:

> The Congressional Budget Office estimates that the federal government will pay 57 percent and states will pay 43 percent of the $140 billion cost of Medicaid in 1993.
>
> Federal funds pay an average of 54 percent of benefit costs and 50 percent of administrative costs for AFDC.

Overall, the federal share is largest in poor states and smallest in more wealthy states.

14. *a.* True. Two-thirds (68 percent) of Medicaid *recipients* were AFDC children and their families, but two-thirds (71 percent) of Medicaid *costs* were for the aged, blind and disabled in 1990.

Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: 1992 Green Book*, pages 1656 and 1658.

15. *e.* All of the first four statements are true about the Earned Income Tax Credit:

> You can only get an EITC if you have an annual income of less than $22,371.
>
> You can get a check from the IRS even if you don't owe any taxes.
>
> Even though the instruction booklet is 32 pages long, 13.8 million families got EITC's in 1992.
>
> It could be worth up to $2,210.

16. *d.* All of these statements are true regarding how the value of a car is counted in determining eligibility:

> Under Food Stamps, there is a $4,500 market value limit on the value of a car.
>
> Under AFDC, there is a $1,500 equity value limit on the value of a car.
>
> Under Medicaid, the limit on the value of a car varies from a $1,500 equity value limit to excluding the value of the car altogether.

Source: Sarah Shuptrine, "Reforming Medicaid Eligibility Rules" in *The Safety Net*, Summer 1991, page 6.

17. *c.* The IEL Policy Exchange promotes policy initiatives that foster collaboration and coordination on issues affecting children, families and communities. Activities of the Policy Exchange include:

 National seminars and site visits for key federal policy makers,

 Publications that bridge agency and disciplinary boundaries, and

 State-level activities for policy makers.

* * *

SCORING THIS QUIZ

15-17 = You are a certifiable policy wonk.

11-14 = You are a wonk only on Tuesdays and Thursdays.

6-10 = You have wonk potential.

0-5 = You are not a wonk.

The Intergovernmental/Interagency

Policy Exchange

April 1, 1993

INTERGOVERNMENTAL/INTERAGENCY POLICY EXCHANGE

THE INSTITUTE FOR EDUCATIONAL LEADERSHIP, INC.

HOW MUCH DO YOU KNOW ABOUT FEDERAL PROGRAMS FOR CHILDREN AND FAMILIES?

TAKE THIS QUIZ AND FIND OUT

1. ***What is Chapter 1?***
   - a. A new novel by Stephen King
   - b. A computer program for people with writer's block
   - c. A federal program to give a boost to educationally disadvantaged children
   - d. Something that comes before Chapter 2

2. ***Which of the following federal programs has the largest budget?***
   - a. Food Stamps
   - b. AFDC -- Aid to Families with Dependent Children
   - c. WIC -- Special Supplemental Food Program for Women, Infants & Children
   - d. Head Start

3. ***Which statement is true about the Joint Committee on the Organization of Congress?***
   - a. They have already brought some sense to the crazy-quilt of federal programs for children and families that cut across a dozen committees and subcommittees.
   - b. Sure, they have a great opportunity, but they won't have the guts to tackle the tough issues of committee jurisdiction.
   - c. No one really knows yet the degree to which the Committee will address coordinating programs affecting children and families.

4. ***What do the letters "JTPA" stand for?***
   - a. An antibiotic the FDA just approved to treat drug-resistent tuberculosis
   - b. The Job Training Partnership Act
   - c. The Juvenile Treatment and Prevention Act

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5. *What percentage of people eligible for WIC (Special Supplemental Food Program for Women, Infants and Children) actually get food help through this program?*
   a. 100%
   b. 73%
   c. 56%
   d. 29%
   e. 8%

6. *How about Head Start? What percentage of poor three-to-five year olds actually participate in a Head Start program?*
   a. 100%
   b. 73%
   c. 56%
   d. 29%
   e. 8%

7. *Why does the IEL Policy Exchange compare collaboration across committees, agencies and disciplines to "dancing with an octopus?"*
   a. Because each agency or program is like a tentacle of an octopus, connected but often not coordinated.
   b. Because the old ways of moving no longer work: you have to learn new steps to dance with a creature that has more than two "feet."
   c. Because you can't move ahead if each tentacle goes off in its own direction.
   d. All of the above
   e. None of the above

8. *How many low-income households get a rental subsidy through the Section 8 Leased Housing Assistance Program?*
   a. 1 million
   b. 4.7 million
   c. 15.7 million
   d. 25.3 million

9. How poor is poor? For a family of four, what annual income is considered "poverty" under the guidelines of the federal Office of Management and Budget (OMB)?

a. $50,000

b. $24,680

c. $13,950

d. $6,250

10. What is the most that a family of three (a mother and two children) living in Mississippi could receive each month as an AFDC payment in 1992?

a. $120 per month, about $4 per day

b. $180 per month, about $6 per day

c. $370 per month, about $12 per day

d. $660 per month, about $22 per day

e. $1,200 per month, about $40 per day

11. What is the largest federally funded child care program?

a. The Social Services Block Grant program, which goes under the alias of "Title XX"

b. The Child and Dependent Care Tax Credit

c. The Child Care and Development Block Grant

d. A special nanny program run by the INS

12. What is EPSDT?

a. The name of a new rap group

b. A pesticide that was recently banned

c. A diet plan where you eat chocolate seven times a day

d. The part of Medicaid that applies to children under age 21

13. On average, how much of the tab does the federal government pick up for Medicaid and AFDC (Aid to Families with Dependent Children)?

a. 100%

b. 80-87% -- the states pay the rest

c. 50-57% -- the states pay the rest

d. 20-27% -- the states pay the rest

e. 0% -- the states pay it all

14. *True or false? Two-thirds of Medicaid* **recipients** *are AFDC children and their families, but two-thirds of Medicaid* **costs** *are for the aged, blind and disabled.*
    - a. True
    - b. False

15. *What is the strangest thing about the Earned Income Tax Credit (EITC)?*
    - a. You can only get an EITC if you earn an annual income of up to $22,370.
    - b. You can get a check from the IRS even if you don't owe any taxes.
    - c. Even though the instruction booklet is 32 pages long, 13.8 million families got EITC's in 1992.
    - d. It could be worth up to $2,210.
    - e. All of the above -- *There are a lot of strange things about the EITC.*
    - f. None of the above -- *There is nothing strange about the EITC.*

16. *Which of the following statement(s) are true regarding how the value of a car is counted in determining eligibility for federal programs?*
    - a. Under Food Stamps, there is a *$4,500 market value* limit on the value of a car.
    - b. Under AFDC, there is a *$1,500 equity value* limit on the value of a car.
    - c. Under Medicaid, the limit on the value of a car varies from a *$1,500 equity value limit to excluding the value of the car altogether.*
    - d. All of the above are true.
    - e. None of the above are true.

17. *The Institute for Educational Leadership's Policy Exchange is:*
    - a. A CIA front
    - b. A clearinghouse for recycled policies
    - c. A nonpartisan effort to promote policies that foster collaboration and coordination on issues affecting children, families and communities
    - d. All of the above
    - e. None of the above

April 1, 1993

NATIONAL SCHOOL BOARDS ASSOCIATION

I. INTRODUCTION

The National School Boards Association (NSBA) on behalf of the 97,000 school board members across the country, is strongly committed to the coordination of educational support services for disadvantaged students and their families. As part of these efforts NSBA has been working closely with Congresswoman Nita Lowey (D-NY) and Senator Bill Bradley (D-NJ) on their Link-Up for Learning bill. We are very pleased that the Committee is holding hearings on this legislation and we look forward to working with the Committee, and with Representatives Lowey, Robert Andrews (D-NJ) and Connie Morella (R-MD) to build further bipartisan support for this legislation. During the 102nd Congress the bill had 140 cosponsors, and over 70 members have already cosponsored the legislation in the 103rd Congress.

II. NSBA'S ACTIONS AT THE LOCAL LEVEL TO PROMOTE COORDINATED SERVICES

At the local level, NSBA has taken numerous actions to foster collaborative programs. NSBA has helped local policymakers establish their own coordinated services programs by publishing a wide variety of pamphlets and books providing collaborative models and descriptions of existing successful collaborations. NSBA's *Link-Up: A Resource Directory* provides descriptions and contact persons for over 170 coordinated services programs and numerous guidelines and forms for establishing successful new coordination projects. In addition, one of NSBA's health publications, *School Health: Helping Children Learn*, has been so successful that the World Health Organization is distributing it internationally to foster health programs. NSBA also has sponsored training programs and workshops for board members and administrators to help them start coordinated services programs.

The Comprehensive School Health Project and its HIV/AIDS Education project have been two of NSBA's most successful efforts to foster local collaborative programs. The Comprehensive School Health project, funded by a Department of Education grant, helps local districts plan and implement programs that insure that students have access to immunization and other primary health care services. NSBA also has received a grant from the Centers for Disease Control to establish programs and workshops for local policy makers to help them both increase awareness among students about the dangers of HIV/AIDS and to implement programs to slow the spread of the virus.

III. NSBA'S EFFORTS TO PROMOTE COLLABORATION AT THE NATIONAL LEVEL AND THE LINK-UP FOR LEARNING BILL

At the national level, NSBA has been leading efforts to promote collaborative services designed to improve students' academic performance. In February of 1991, NSBA convened a conference of the leading national associations representing local government, -- school boards, mayors, county supervisors, town and townships, city managers and school administrators -- to develop a collaborative approach to the delivery of educational support services to children.

This meeting produced the "Wingspread Conference Statement on Collaboration" where the signatories agreed to enlist the support of their local membership in creating greater collaboration. At the national level the signatories agreed to work to promote legislation to coordinate more effectively these services. (See attachment.)

In early 1991, NSBA determined there was an urgent need for federal legislation to encourage coordinated services to improve the educational performance of at risk students. NSBA worked closely with Representative Nita Lowey and Senator Bill Bradley NSBA in developing and building support for the Link-Up for Learning legislation.

Link-Up is based on the fact that many social problems such as drug abuse, poverty, and poor nutrition and health care prevent many of our nation's children from achieving their academic potential. Link-Up will boost student's academic achievement by more effectively coordinating the delivery of social services to students and their families and by making additional funds available to provide needed educational support services that may not be available.

H.R. 520 authorizes $250 million to establish a Department of Education competitive grant program and to establish a federal interagency task force to facilitate interagency collaboration. Any Chapter 1 eligible school district in collaboration with a public agency, a non-profit organization, an institution of higher education, or a Head Start agency can apply for the funds. Special consideration will be given to areas with high proportions of at-risk students.

Since the need for Link-Up is now well established, NSBA would like to address here several issues raised at the hearing concerning the most effective way for the federal government to foster these programs.

A. **The most effective way to promote greater coordination of services is through the Link-Up for Learning Bill.** Modifying Chapter 1 to allow these funds to be used for coordinated educational support services poses several problems. First, all the available Chapter 1 funds are needed to provide educational programs for educationally disadvantaged students. In fact, additional funding is needed for this purpose alone, and adding yet another possible use for Chapter 1 funds dilutes the effectiveness of Chapter 1 and will not make adequate funds available for coordinated services. Many districts also may be reluctant to use Chapter 1 funds for the needs assessments and administrative expenses that are frequently necessary for creating effective coordinated services programs.

B. **The participation of the school district is essential in insuring that students have maximum possible access to the needed services.** The cooperation of the school district insures that teachers, administrators, and other school personnel will help disseminate information to the students, will make the needed referrals to the entity coordinating services, and will encourage students to participate in the programs. In addition, full participation by the school district will facilitate the needed administrative cooperation between the school personnel and those in the social service agencies. Since schools are the site where students spend most of their days and interact the most with professionals, schools are essential partners in any collaborative project.

C. Providing funds directly to Local Education Agencies reduces the administrative costs of the program and insures the maximum amount of funding is available for improving services. If Link-Up funds are funneled through states another level of bureaucracy will be created and the danger exists that less funds would be available for the actual Link-Up programs.

D. Link-up for Learning funds can be used to perform the required local needs assessments, to remove the administrative barriers to effective coordination, and to provide the needed educational support services that may not be available. Both some local and some national funding sources can be used for helping to start Link-Up type programs. However, there is intense competition for funding from these sources and most of these sources are designed primarily for other purposes. Funding Link-Up is essential for insuring that a significant amount of funds are targeted directly for promoting the coordination projects and the necessary services that are localities' highest priorities.

Link-Up is clearly an idea whose time has come. It will create greater efficiency in the delivery of social services, it can help reduce the drop-out rate and boost student achievement, and in a wider sense it can help our children become productive, healthy, and self-sufficient adults.

Service to America's youth: a joint statement

Children are our nation's most valuable resource and represent the nation's future. It is essential that each child has the support needed to become a productive citizen in the world of the 21st century. Also it is essential to change the delivery of services to provide improved access and quality services for those most at risk.

However, demographic trends, including trends in American family life, have given rise to complex needs not easily addressed by current service delivery approaches.

For example, the difficulties which many children experience at school frequently are the results of poor health, inadequate nutrition, lack of parental support, troubled family lives, or a dangerous environment, and are not just educational.

At the local level, the services provided to address these needs often are distributed across a variety of governmental agencies, with the result that children remain at risk and are receiving fragmented services.

Because the healthy development of children is so critical, the national associations representing local government have met for the purpose of collaborating on a process of change to secure the collective future of our children, and ultimately, the well-being of the nation.

Foremost, we believe that a greater commitment must be made by all governmental agencies, at all levels of government, to serve youth. This must be done in a holistic child-centered manner, emphasizing collaboration among local governmental agencies.

To foster greater collaboration among local governments, the participating associations agree that a common vision for providing services should be established. This vision should recognize the necessity for:

(1) services which address the needs of the whole child and the child's family;

(2) service interventions at the earliest appropriate age levels, including prenatal health care; and

(3) services which are brought to the child, especially the full utilization of school sites and other neighborhood centers.

Successful collaboration will require each governmental agency to provide the funding and services for which it is responsible in a spirit of change, recognizing that needed services are interrelated and must be integrated.

Additionally, the participating national associations representing local government agree to work together to:

- plan a sustained collaborative effort at the national level to provide leadership in serving children;
- launch a national advocacy campaign to increase public awareness concerning the vital importance of interagency collaboration; (Major goals of this campaign would include:
  —a "National Summit on Serving the Whole Child," bringing together policymakers from all governmental levels, the private sector, and the general public to explore policy and program options for the coordination of services, and
  —joint legislative initiatives to further interagency collaboration.)
- establish association policies that strongly encourage collaboration;
- encourage a shift in emphasis to cost-effective preventive programs in recognition of the enormous resources now being devoted to institutional care;
- develop approaches for local action, including information concerning successful programs, to assist their members at the state and local levels to implement interagency collaborative programs; and
- encourage their members at the state and local levels to exercise a leadership role in:
  —evaluating existing programs in terms of meeting the needs of children and effectively coordinating services;
  —developing governmental policies to encourage collaboration in the delivery of services; and
  —involving the community in these efforts.

It is the hope that this historic meeting, which is the first between the leaderships of national associations representing school districts, cities, counties, towns, and townships, will set an important course in the delivery of services. The participating associations are confident that interagency collaboration will benefit children and will build a strong, prosperous nation.

Participating groups: National School Boards Association
American Association of School Administrators
International City Management Association
National Association of Counties
National Association of Towns and Townships
National League of Cities
U.S. Conference of Mayors

HEARING ON H.R. 6: WOMEN'S EQUITY IN EDUCATION

WEDNESDAY, APRIL 21, 1993

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:05 a.m., Room 2175, Rayburn House Office Building, Hon. Dale E. Kildee, Chairman, presiding.

Members present: Representatives Kildee, Sawyer, Unsoeld, Mink, Becerra, Woolsey, English, Romero-Barcelo, Gunderson, and Molinari.

Staff present: Susan Wilhelm, staff director; Jane Baird, education counsel; Tom Kelley, legislative associate, Margaret Kajeckas, legislative associate; Jack Jennings, education counsel; June Harris, legislative specialist; and Lynn Selmser, professional staff member.

Chairman Kildee. I know some of the witnesses have other of their own committee responsibilities this morning, so we'll get started. The Subcommittee on Elementary, Secondary, and Vocational Education convenes this morning to discuss the issues of women's equity in education. We just had a very excellent press conference on that very issue.

This is our ninth hearing in a series on the reauthorization of the Elementary and Secondary Education Act. One of our goals in this reauthorization is to improve education for all children and, in so doing, it is important that we examine the need to ensure that young women in this country have equal access to high quality, challenging educational experiences.

Before I introduce our first witnesses, I'd like to acknowledge my good friend and ranking Republican member, who will be here momentarily, Mr. Goodling; and Mr. Sawyer, who has been a faithful, contributing cerebral member of this committee.

I know Congresswoman Schroeder does have her own responsibilities with her committees so, with that, I think we'll let you begin right now.

STATEMENTS OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO; HON. OLYMPIA J. SNOWE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE; AND HON. PATSY T. MINK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII

Mrs. SCHROEDER. Thank you so much, Mr. Chairman and my very good friends, and Mr. Sawyer, too. I really don't know what I can possibly say that you haven't heard in the last hour from the press conference, but, as I said, I think this is very historic and it shows your subcommittee's dedication and your own personal dedication, that we move right from the press conference to the hearing on what we think is very, very important legislation, and I know you do, too; and that is the Gender Equity in Education Act.

As you know, this is a composite of a series of bills that, as you so eloquently pointed out, is probably less than a third of a B-2 bomber in cost and yet could make a tremendous impact in the difference of how we compete in the global economy, because it makes no sense to me to figure out how we're going to compete in the global economy if we're not developing fully all the brainpower.

We have been saying to about 51 percent of that brainpower, "Now, now, don't aim too high; don't think too much, and be sure and be pretty." This legislation is sending another message and saying that young women's parents pay exactly as much in taxes as everyone else, and those young women ought to get the same kind of education and educational opportunities.

I'm going to ask unanimous consent to put my statement in the record, only because I do have to go chair a conversion hearing in defense, so we can convert some of this money so we can finally catch women up, now that the Chairman challenged me during the press conference. I'm going to be leaving it in very good hands to our other co-chair, the very distinguished member from Maine, Olympia Snowe, and, of course, our task force chair, who is absolutely no stranger to this issue and has been pushing it long and hard, and that is Patsy Mink.

Any questions that the committee has for me, I would be more than happy to answer. We just cannot thank you enough. We think this is legislation whose time came and went probably 200 years ago, but if we can get it through this year with your help and get it done and really start going to implement it, it will be wonderful for the next generation of young women.

Hopefully, our granddaughters, Mr. Chairman, will then live in a very different kind of world than our mothers and our wives and myself and our young children did. This may be granddaughter legislation, but, by golly, it's time it happened, and I thank you very much for letting me be here.

I will put a much more articulate statement that my staff worked on very hard—they keep telling me I'm a text deviate—I will put that in the record if that is all right.

[The prepared statement of Hon. Patricia Schroeder follows:]

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

As Co-Chair of the Congressional Caucus for Women's Issues, I am pleased to testify today on new legislation designed to address gender inequities in education. I want to thank Chairman Kildee for convening this hearing, and for joining with the Caucus today to introduce the Gender Equity in Education Act. I also want to thank the congresswomen who sit on this subcommittee for the many hours of hard work they have put in to make this legislation a reality.

The Gender Equity in Education Act is a new package of legislation that will, for the first time, address the educational needs of girls.

For too long, the needs of girls have been ignored or overlooked in crafting education policy. We thought that, because girls were sitting quietly in their classrooms, handing in their homework on time, everything must be fine. But today, we have a whole body of evidence that tells us this just isn't true.

Today, we know that little girls as young as 11 years old suffer from low levels of self-esteem. Where 9-year-old girls were once confident that they could conquer the world, girls at age 11 suddenly begin doubting their worth. They no longer like themselves and they begin to question their own abilities.

We also know that this drop in self-esteem stems in large part from the way girls are treated in school. At all classroom levels, from preschool to university, girls are less likely to receive attention from their teachers.

In preschool, teachers give more hugs to boys than they do to girls. Teachers are more likely to call on boys and to give them constructive feedback. When boys call out answers, teachers tend to listen to their comments. But girls who call out their answers are reprimanded and told to raise their hands.

Girls also find themselves discouraged from taking math and science classes. Girls start out school with the same interest and the same skills in math and science as boys, but by high school have dropped sharply behind boys in the number of math and science classes taken and in achievement scores.

The Gender Equity in Education Act is designed to address these and other problems, and to ensure that our daughters receive the best possible education. The Caucus has been working for over a year to develop this legislation, in preparation for the reauthorization of the Elementary and Secondary Education Act this year.

The Gender Equity in Education Act will help make schools an environment where girls are nurtured and respected, where they can learn that their lives are valuable at the same time they learn their ABCs, and where they are encouraged to excel in every subject, not just those deemed "appropriate" for girls.

Our package is composed of nine bills that have all been separately introduced by individual Caucus members. One key piece of the package would establish an Office of Women's Equity at the Department of Education to ensure that all education programs meet the needs of girls and women. The package will also provide equity training for teachers so that the subtle and not-so-subtle biases against girls can be overcome.

Other issues addressed by the package include encouraging girls to take math and science classes, providing comprehensive services for school-age children, and helping pregnant and parenting teens to remain in school. The Congressional Caucus for Women's Issues plans to make passage of this legislation one of its top priorities this year, and we look forward to working with the subcommittee to ensure that girls receive the very best education our Nation has to offer.

Chairman KILDEE. We will probably submit some questions to you in writing, which you may respond to for the record, also. I know you have your own committee assignment to take care of right now.

Olympia, are you next?

Ms. SNOWE. Thank you, Mr. Chairman. I want to thank you again for your leadership and commitment on this issue and for being the chief sponsor of our comprehensive package. I'm pleased to be able to be here today with my colleagues, Congresswoman Schroeder and Congresswoman Mink, and for their efforts on behalf of this legislation.

I think we all agree on the serious problem that exists in our educational system, and that is having systematic discrimination against girls in our classrooms. It clearly has to be addressed.

As I said at the press conference, the impetus for our efforts within the caucus to develop this comprehensive package stems from the AAUW's report on how schools shortchange girls, which did reveal that girls get less attention in the classroom, as we know, than boys, are discouraged from entering science and math courses, as well.

Then recently—as recently as last month, in fact—the National Organization for Women's Legal Defense and Education Fund conducted another study and released those results of a survey of more than 2,000 girls and found that 39 percent of those girls reported being harassed at school every day last year. Another 29 percent said that they experienced sexual harassment on a weekly basis. This is more than a statistic. It's more than a problem. It is a tragedy.

Members of the subcommittee, I think we all understand the implications of sexual harassment. In fact, other studies have indicated that where schoolage girls have reported incidents of sexual harassment to their school principals and school administrators, in only 55 percent of cases had action been taken. What we are saying is that, in the other 45 percent, the schools have remained silent. That is another way of perpetuating the wrong attitudes and certainly deleterious attitudes such as, "Well, boys will be boys," or, "It's time for boys to grow up."

We cannot accept that. This is very serious. This is a very serious problem. It is a very serious issue that ultimately leads to that kind of conduct on behalf of the young men and women when they enter the American workforce. We know that peer-to-peer sexual harassment has significant implications for young girls. We find it not only in the physical symptoms, not only insomnia, but also loss of self-confidence and self-esteem, absenteeism, tardiness, and, in many instances, young girls ultimately drop out of school.

In 1992, the Supreme Court issued a decision, and I think a very significant decision because, ultimately, I think it will compel the schools to take action in terms of writing policies that will establish clear prohibition as well as enforcement against sexual harassment and discrimination in the school system.

We know that it's illegal, but what has happened is that many of the school systems have failed to enforce the laws that are currently on the books with the Civil Rights Act as well as with Title IX. The implications of the Supreme Court decision, I think, will certainly compel the school systems, because it would mean more punitive damages that will be paid out in instances of sexual harassment and sexual discrimination.

I have included in the comprehensive package that will be introduced by the caucus legislation that will attempt to free schools from sexual harassment and it would amend the Elementary and Secondary Education Act that would redefine and expand effective school programs that will create an environment free of sexual harassment and abuse.

I think that we all recognize the startling implications of sexual harassment in our school system but, more importantly, that if we start in the early stages with our young people with respectful attitudes and proper conduct, it clearly will create a brighter future for women in America and certainly for all of society.

Again, I want to thank you and commend you, Mr. Chairman and members of the subcommittee, for your efforts on behalf of gender equity in education. Thank you.

[The prepared statement of Hon. Olympia J. Snowe follows:]

Statement of Hon. Olympia J. Snowe, a Representative in Congress from the State of Maine

Mr. Chairman, thank you for holding this hearing today on the important issue of gender equity in our Nation's schools. I also thank you for being the chief co-sponsor of the Caucus' Gender Equity in Education Act. Finally, I also offer my thanks to the members of the Congressional Caucus on Women's Issues who are also members of this subcommittee for all their hard work in developing this important package.

As you have just heard from Congresswoman Schroeder, there exists subtle, yet systematic discrimination against girls in our education system. Such discrimination has significant repercussions not only for the girls themselves, but for our entire society.

In an effort to address some of the obstacles girls face, the Congressional Caucus on Women's Issues has been working for over a year to develop this educational equity package. Our efforts were given new impetus after the release of a report commissioned by the American Association of University Women entitled, "How Schools Shortchange Girls." This report reveals that America's education system is not meeting the needs of girls—they receive less teacher attention than boys and are often discouraged from enrolling in math and science courses.

Compounding this disturbing information, a study released last month found devastating evidence of sexual harassment in our Nation's schools. Commissioned by the National Organization for Women's Legal Defense and Education Fund, and conducted by researchers from Wellesley College's Center for Research on Women, this national study of 2,000 school-aged girls found that 39 percent of girls reported being harassed at school every day during the last year. That's almost four of every 10 girls. Another 29 percent said it happens once a week. This is more than just another statistic. This is more than just a problem. It is a tragedy.

Members of the subcommittee, sexual harassment and discrimination is, and always has been illegal in schools. And yet, according to the study, when students told a teacher or school administrator that they had been harassed, the school took action in a mere 55 percent of the cases. By not taking any action in the other 45 percent of cases reported by girls and remaining silent, our schools further the image of institutional insensitivity, undermine the seriousness of sexual harassment, and perpetuate the deleterious attitude that "boys will be boys." Well, it's time for the boys to "grow up."

Sexual harassment has serious adverse effects on learning both inside the classroom and outside. According to a 1980 study on peer to peer sexual harassment in high schools, girls felt embarrassed, powerless, angry. They feared retaliation, lost self-confidence, and felt cynicism about education and teachers. Students identified physical symptoms like insomnia, and reported a reduced ability to perform schoolwork, excessive absenteeism, or tardiness. They also indicated that sexual harassment led them to transfer from a particular course or field of study and, in some cases, to withdraw from school.

According to the report, there is no question that any one of these conditions constitutes a denial of equal educational opportunity for these girls. If we cannot even protect our school-age girls from sexual harassment in our schools, how can we promise them a brighter future in the American workforce?

In February 1992, the Supreme Court sent a wake-up call to school systems that sexual harassment won't be tolerated. In the *Franklin v. Gwinnett County School District* decision, the Court permitted damages for students who are victims of sexual harassment and discrimination. As a result, some school districts have begun to establish written policies regarding harassment, but more schools must take action. Clearly, a great deal more needs to be done, and that is why I introduced the Sexual Harassment Free Schools Act, as part of the Gender Equity in Education Act.

This legislation assists schools in their nascent efforts to eradicate all forms of sexual harassment and abuse. The bill authorizes a research and development grant and an implementation grant for programs to address sexual harassment and violence. This effort will help keep schools free from threats to the safety of students and employees.

My bill also expands the definition of "effective schools program" in the Elementary and Secondary Education Act [ESEA] to include a safe and orderly school environment, free from sexual harassment and abuse. This not only allows teachers and students to focus their energies on academic achievement today, but prepares both girls and boys for proper professional conduct in tomorrow's workforce.

Finally, my legislation authorizes funds under ESEA's Programs for the Improvement of Comprehensive School Health Education to be used for sexual harassment and assault programs.

Members of the subcommittee, these are simple provisions that have the potential to make a big difference in the lives of female *and* male students throughout the country. I hope you will consider including this bill, and the Caucus' entire Gender Equity in Education package, in the reauthorization of the Elementary and Secondary Education Act. The reauthorization process provides us with a unique opportunity to address some important, and, frankly, startling deficiencies in girl's education. Perhaps if we turn our attention to eliminating sexual harassment in its very early stages in our Nation's schools, we can create a climate of proper conduct and respectful attitudes for our children's tomorrows.

Thank you once again for the opportunity to testify before you today.

Chairman KILDEE. Thank you very much, Ms. Snowe. Through the years, on many, many issues, you have demonstrated that those issues of sex equity and human dignity in general transcend party differences, and you have been really great in that area, and I especially appreciate it.

Ms. SNOWE. Thank you, Mr. Chairman.

Chairman KILDEE. Mrs. Mink.

Mrs. MINK. Thank you, Mr. Chairman. I, too, want to commend you for your leadership and for your sponsorship of this bill that the women members have put together for a comprehensive approach towards gender equity in education. Your participation at the press conference this morning was extremely important for the future of this legislation, and I want to particularly express my own personal appreciation for your leadership in this effort. It will mean a great deal to the future of this bill.

The two co-chairs from whom you have heard, Congresswomen Pat Schroeder and Olympia Snowe, have provided us with enormous leadership in a wide range of issues that affect women, and their leadership has resulted in enormous successes, particularly in the area of women's health.

Were it not for the leadership that these two colleagues have provided in that area, we would not have made the significant advances that we have in recent years. So their leadership today, as head of the Congressional Caucus on Women's Issues, presenting this Gender Equity in Education Act, together with your sponsorship, underscores the importance of this legislation.

As the initial sponsor of one of the titles, 20 years ago, the Women's Educational Equity Act, which took 2 years to become law, I worked from a belief that, while we were approaching equity in our society from a variety of areas, fundamentally what we needed to do was to change the attitudes of our society about women and girls. What better place to start and begin such an effort than in our school system?

That was the beginning of the Women's Educational Equity Act. It was a bold step to try to bring ideas from all across the country together in research efforts and, particularly, to implement them in our school system: To help teachers, to help parents understand generations of attitudes that have built upon one another to establish sort of an acceptance of this behavior, which we need to, of course, undo.

The miracle of the WEE Act is that it has survived over these 20 years—but just barely. It is currently only authorized at $9 million. We do not have the ability to reach out and implement it. We have done wonderful research with its limited funds, but we have not been able to translate findings into our school policy, both public and private, and, therefore, its impact has been limited.

They told me 20 years ago, "Be patient." Well, our patience has run out, Mr. Chairman. It is time to build upon the work that has been done over the past 20 years and to now aggressively implement the research that has been conducted which, in my view, has been very, very important. I appreciate the fact that this reinvigorated Women's Educational Equity Act is Title I of this bill.

Also noteworthy are Congresswoman Cardiss Collins' long-term efforts. We hear her at least once every week deploring the failure of enforcement of Title IX, and she has emphasized the failures of Title IX particularly in the sports area, so that is also included. Although not in the elementary-secondary Act, it is part of this comprehensive package, and I just point out to you that there is this one section that deals with higher education.

Whether we are dealing with attitudes of the administration, of our public school system, of our teachers in the classroom, or just with our failure to be sensitive to these issues, I think it's important to understand that progress must be made.

One of the important studies that has brought to a focus this whole issue, of course, is the AAUW's report, which commanded nationwide attention and really brought to light the importance of doing something about the failures of our system to recognize all the things that were happening, unbeknownst to many of the teachers, as we heard this morning.

From sexual harassment to the way that we denigrate girls at an early age in our classrooms, to our failure to inspire them with respect for their own abilities and talents, to the discrimination against pregnant teenagers in our school environments, to the failure to provide extra services, we have pulled together a very, very strong program. On top of all of that, we are saying that there is a lack of interest in trying to establish a history of what is going on in public and private education by the failure to collect data.

One of our colleagues is the author of an important section of this bill dealing with the necessity of data collection and calling upon the Department of Education to do better in that area. I would like to note the contribution of our colleague, Lynn Woolsey, as well as our colleague, Susan Molinari, who has an important section dealing with women's equity.

Mr. Chairman, finally, I'd like to thank you for your participation and your sponsorship of this legislation and hope that we may be able to make fast progress in seeing that this bill is reported out. Thank you very much.

[The prepared statement of Hon. Patsy T. Mink follows:]

STATEMENT OF HON. PATSY T. MINK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII

Mr. Chairman, I want to thank you for convening this hearing on a subject of great importance to the improvement of education and of the great relevance to our current consideration of the Elementary and Secondary Education Act of 1965.

I appreciate the Chairman's interest and commitment to educational equity for girls and women and for his leadership in sponsoring with the Congressional Caucus for Women's Issues a comprehensive legislative package to address the current inequities and discrimination that continue to exist in our educational system.

I welcome my colleagues, Representatives Pat Schroeder and Olympia Snowe, the Co-chairs of the Congressional Caucus for Women's Issues, who are here to testify on this legislative package, the Gender Equity in Education Act. Having worked with them as chair of the Economic and Educational Equity Task Force of the Caucus, which had the responsibility of developing this legislative package, I want to commend them for their hard work and dedication in putting this all together.

This bill, the Gender Equity in Education Act, is the result of a great deal of collaboration and effort on the part of many members of the Caucus, several of whom are members of this committee; Representatives Jolene Unsoeld, Lynn Woolsey, and Susan Molinari. Nita Lowey, a former member of this committee, also contributed to this legislation. All the members, Constance Morella, Louise Slaughter, and Cardiss Collins, need to be recognized for their efforts in developing this comprehensive initiative.

This is the first time the Congressional Caucus for Women's Issues has developed a comprehensive legislative package to address the educational inequities girls and women face in our school system. And I believe the coordinated effort of the Elementary and Secondary Education Subcommittee and the Caucus, represented by this legislative initiative and this hearing today, will move us far ahead in achieving the goal of equity in our education system that many of us have been working toward for over two decades.

My involvement in this issue goes back many years, and I am very excited about this renewed enthusiasm in the Congress, among education and women's groups, and in schools all across this Nation, to rid our education system of the barriers girls and women face in striving for educational, economic and social equity.

During my previous tenure in the Congress as a member of the Education and Labor Committee, I helped to write Title IX of the Education Act Amendments of 1972, which prohibits sex discrimination in all federally-funded education programs.

Two years later the Congress passed the Women's Educational Equity Act, legislation I authored to develop programs which would assist local school districts in complying with the title IX prohibition of discrimination against female students.

Since its enactment title IX has opened the doors of education opportunity to literally millions of girls and women across the Nation. Title IX helps tear down inequitable admissions policies, eliminate archaic dress codes, improve vocational education opportunities for women, reduce discrimination against pregnant students and teen mothers, and combat sexual harassment in our schools.

However, I think the testimony we will hear today will demonstrate that we still have a long way to go. And that the role of the Federal Government is essential to achieving educational equity for girls and women.

Unfortunately, Federal leadership has been almost non-existent in this area over the last decade. While many, such as Mr. Kildee, worked hard to keep programs like WEEA alive, the continued budget cuts and threats of elimination by the administration virtually decimated WEEA the last 12 years.

In the 1970s WEEA was an extremely successful program, initiating hundreds of projects that have resulted in valuable research, curriculum development, and actual services in promoting educational equity for girls and women. In 1976, its first year of operation, WEEA was funded at $6 million. By 1990 funding levels rose to $10 million.

However, during the 1980s, the Reagan and Bush administrations sought to eliminate WEEA and curtailed its productivity through severe budget cuts. In fiscal year 1991 WEEA received only $500,000 for information dissemination only, no new programs were funded.

Yet despite severe budget cuts and threats of elimination, WEEA has continued to survive. We were able to increase its appropriation for fiscal year 1992 and fiscal year 1993 to a modest $2 million for the continued development of model equity programs. But so much more is needed, as demonstrated in the AAUW report and in the legislative proposals that have been developed by the Caucus. Our efforts today signifies a renewal of our commitment to providing girls and women with equitable opportunities at all levels of education.

I am extremely excited about the fact that this omnibus package which addresses many areas of need, begins with the revitalization of the Women's Educational Equity Act. Title I, The Women's Educational Equity Act of 1993, recaptures the original intent of WEEA through the establishment of an Office of Women's Equity, which will promote and coordinate women's equity policies and programs and in all Federal education programs and offices.

Many of the other legislative proposals within the Gender Equity in Education Act call for changes to existing programs and the establishment of new programs within the Department of Education to address the education needs of girls and women. These include initiatives to address sexual harassment in our schools, provide teacher training on equity issues, improve girls' achievement in math and science, establish programs for pregnant and parenting teens, provide coordinated social services within our schools, provide child abuse education, address inequities in athletic programs, and improve data collection.

The Office of Women's Equity will be charged with the responsibility of assisting in the development and coordination of these new initiatives within the Department of Education through technical assistance and other coordinating functions.

The Office will also maintain the current WEEA grant program to develop model programs, curricula, and materials to advance educational equity. However, the most exciting initiative in the Women's Educational Equity Act of 1993 is a new program which will actually give funds to school districts and community organizations to implement equity programs for girls and women within local school systems. Many model equity programs have been developed over the last 15 years and now is the time to assist schools and school districts in actually integrating these programs into their educational systems.

Reform within the educational system begin at the local level. And as we seek to eliminate the discrimination, inequities and barriers that continue to prevent girls and women from achieving educational, economic and social parity in this society, we must assure that schools all across this country implement and integrate into their curriculum, policies, goals, programs and activities, initiatives to achieve educational equity for women and girls.

I look forward to the testimony that will be presented here today and to working with this subcommittee to enact the Gender Equity in Education Act into law.

Chairman KILDEE. Thank you very much, Patsy. Of course, I enjoy serving with you as a member of this subcommittee and also on the Budget Committee. For a number of years on the Budget Committee I was always afraid to leave the room during the markup for fear that my programs would be stolen, but I could always leave as long as you were still there, because I knew they would not be stolen. You were great on that, and it's great to have you on the Budget Committee.

Mrs. MINK. Thank you.

Chairman KILDEE. Let me ask one question. I will direct it to Olympia and either one of you can answer. Could you just tell the subcommittee something about the background, the research, the collaboration with other groups that went into the development of this Gender Equity in Education Act?

Ms. SNOWE. Absolutely, Mr. Chairman. The caucus has been working with groups for more than a year—the American Association of University Women, the National Women's Law Center—in the development of this legislation, and it was also based on their efforts, as I said previously, concerning their surveys that ultimately gave weight to development of this legislation.

Chairman KILDEE. Thank you very much. Patsy, do you have anything to add?

Mrs. MINK. It certainly is important to emphasize that this is not just simply a generation of effort from the women's caucus, but it was a very strong collaboration with a large number of organizations out there in the community all coming together and sharing ideas and focus that finally has brought to fruition this comprehensive bill.

Ms. SNOWE. I also want to mention the National Organization for Women's Legal Defense and Education Fund, as well, also worked with us and participated in the press conference.

Chairman KILDEE. I've enjoyed, in past years, working with all those groups. They have been very, very helpful. But I think this comprehensive approach is the one that we really should take now.

I would suggest, also, that those groups that you mentioned who have been very instrumental, that their next phase now is to fan out among all the members of the subcommittee and the full committee to get support for this bill. I think that this, for women, can be one of the most important actions in the history of the women's movement, suffrage probably being the first.

I think that suffrage opened the political process to you, and using the political process to make sure you have equity is really the culmination of that right. I really think this should be looked upon as a banner year in sex equity and making America what we want it to be.

Mrs. MINK. Mr. Chairman, I gave and brought to your attention this booklet called "Past the Pink and Blue Predicament—Freeing the Next Generation from Sex Stereotypes" produced by Girls, Inc. The Washington representative is Mildred Wurf. I think this is simply an example of many, many other efforts by other groups in studying this issue and coming together and asking the Congress, now, to take an interest in the research and the conclusions they have reached—that it is time for action. The study time is over. Our patience has been exhausted, and we need to see some action by the Federal Government.

I would like to ask unanimous consent that my statement be inserted in full.

Chairman KILDEE. Without objection, and also without objection, the document which you have presented will be included in the committee files on this bill.

Mrs. MINK. Thank you very much.

Chairman KILDEE. Ms. Molinari.

Ms. MOLINARI. Thank you, Mr. Chairman. Before I welcome and thank our colleagues today, let me join in thanking you for bringing this important issue to our attention.

As we can all attest, that there are injustices in this world, and we can draft many pieces of legislation to correct that injustice, but if the chairperson of a committee or a subcommittee does not want to attend to that subject matter, it is lost in the pile of historical effort that never leads anywhere.

The fact that you have, so early on in this congressional session, allowed us to bring our thoughts for the future to the rooms of the United States Congress attests to our next Susan B. Anthony—who may be a man.

I want to just take this moment to thank my colleagues. I have not been in Congress but for 3½ years, now, and it has been because of the effort largely in part of the two women who sit in front of us, and the strides that they made, along with Congresswoman Pat Schroeder, in defining some of the issues we need to address, not only as a Congress, but as a country.

It is an honor to serve with you both and to join with you in this effort. I thank you for the years of effort and frustration that you've put before us, and I am grateful to be a part of the history that will see, hopefully, all these efforts be brought to fruition and a generation of young women be given a fair chance of learning. I want to thank you very much for that.

Mr. Chairman, because we have been working, I have no questions for our colleagues, but I do ask that my opening statement be submitted for the record.

Chairman **KILDEE**. Without objection, it will be included.

[The prepared statement of Hon. Susan Molinari follows:]

STATEMENT OF HON. SUSAN MOLINARI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Thank you Mr. Chairman. Let me start by welcoming all of our witnesses, and say how very pleased I am that the subcommittee is addressing an issue that is very important to me—gender equity in education.

I would like to start my opening statement by repeating something I read from the American Association of University Women's [AAUW] report, *How Schools Shortchange Girls*. "For the last 11 years, teachers joining a large faculty-development project have been asked, 'What did you study about women in high school?' More than half initially responded, 'Nothing.' Some recall a heroine, one or two historical figures, a few goddesses or saints—Marie Curie is the only female scientist who has been mentioned in 10 years of this survey!"

The AAUW report documents that girls do not receive equitable amounts of teacher attention, that they are less apt than boys to see themselves reflected in the materials they study, and that they often are not expected or encouraged to pursue higher level mathematics and science courses. The implications of this report are clear—the system must change!

I know all too well that gender politics is a subject that many in our schools, and in society, prefer to ignore, but the AAUW report confirms that we can no longer afford to ignore the potential of girls and young women in our society.

We now have a window of opportunity that must not be missed. The report's findings reveal what many congresswomen already know, that the Federal Government needs to address gender equity in education. During the Reauthorization of the Elementary and Secondary Education Act [ESEA] of 1965 we can transform the process of education through a legislative vehicle. Using the ESEA we need to infuse education policy with gender equity efforts and implement programs devoted to gender equity issues.

As in the past, on such issues as economic equity and health equity, the Congressional Caucus on Women's Issues has again taken the lead on the issue of education equity. Today we are introducing the Gender Equity in Education Act of 1993, an omnibus package of legislative initiatives designed to help achieve gender equity in education.

Specifically, I would like to address the equity training section of this comprehensive legislation, which I have also introduced separately. One means of implementing policies devoted to gender equity is through the creation of equity training programs to identify and eliminate inequitable practices in the classroom. My bill accomplishes this by adding language to make equity training programs an allowable use of funds under the Elementary and Secondary Education Act. This language will act as a catalyst to help encourage schools to develop equity training programs for teachers, administrators and counselors.

Whether you are looking at preschool, elementary, or high school classrooms, at female teachers or male teachers, research consistently reveals that boys receive more attention than girls. This indicates that gender equity issues are still not well understood by many educators. Teachers are not always aware of the ways in which they interact with students. The use of equitable teaching strategies, and innovative training programs, should be one of the criteria by which gender equity is implemented.

We need to prepare and encourage our teachers, administrators, and counselors to consciously include equity and awareness in every aspect of schooling. My equity training bill will help increase awareness and provide specific tools for achieving a more equitable educational environment for our children.

I am looking forward to hearing our witnesses' recommendations to help us achieve educational equity for our children. I am also looking forward to working with you Mr. Chairman, and with the ranking minority member, Mr. Goodling, on the entire reauthorization of the Elementary and Secondary Education Act.

Ms. **SNOWE**. I just might add that we thank you for the contribution that you have made in the development of this package.

Ms. **MOLINARI**. Thank you.

Chairman **Kildee**. Mr. Sawyer.

Mr. **Sawyer**. Thank you, Mr. Chairman, I think. You're the fellow who said I was a cerebral congressman at the beginning. What a terrible burden to lay on anybody around this place.

[Laughter.]

Mr. **Sawyer**. I want to thank you for your leadership and for the clear leadership of those who have brought this issue before us today.

I have been particularly concerned over my time in Congress about the consequences of test bias and the broader consequences of self-fulfilling prophecies, particularly with regard to young women entering their middle-school years. This is a pivotal time with respect to decisions on coursework selection. We have ignored a tendency among young women to avoid the selection of many math and science disciplines which precludes participation in the hard sciences and mathematics later on in school. In too many places, those decisions made in the seventh, eighth, and ninth grade prematurely define a pathway for some of the finest minds that are available to our society and preclude them from whole avenues of contribution.

None of that is to say that the avenues that many women have pursued have not been of enormous benefit, but the truth of the matter is that, when we prejudge where those skills might lead, we deny individual women opportunity and, perhaps even more importantly, we deny the Nation the benefit of their work. The work that you do here today is important in overcoming some of that enormous loss to the wealth of the Nation.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Thomas C. Sawyer follows:]

Statement of Hon. Thomas C. Sawyer, a Representative in Congress from the State of Ohio

Gender equity in education is something we've been working on for a long time—and we still haven't gotten it right.

It was first addressed in title IX of 1972 Education Amendments, which prohibits schools that receive Federal funds from discriminating on basis of gender.

But we know that a prohibition is not enough.

The study done just last year by the American Association of University Women, who are represented here today, showed us that girls are still not receiving the same quality, or even quantity, of education that boys are.

As America moves swiftly towards a workplace that will demand increased technological skills from workers, girls are still systematically discouraged from courses in science, math and technology.

We should not—and cannot—afford to continue to lose more than one-half of our human potential because of gender inequities in schools.

Chairman **Kildee**. Ms. Woolsey.

Ms. **Woolsey**. Thank you, Mr. Chairman. You're right about what happens, Tom, in your junior high-school years. That's when I first ran for office, eighth grade, and won.

I want to express my gratitude to you, Chairman Kildee, for scheduling this hearing on such an important topic and for your very real support and leadership. It means so much to this gender equity program. I also want to let everybody know that I have a bill that is part of the larger women's education package and that I can say I am really delighted to be part of this positive effort to make education work for all students, including girls and young women. For too long they have been left out of the education equation.

The release of "A Nation at Risk" in 1983 prompted schools across the country to reexamine their curricula and requirements, and to initiate reforms to do their part to strengthen America's educational system. Our colleague, Congresswoman Mink, 20 years ago started working on women in Title IX and education, and we are still dragging our feet. Researchers and education specialists contributed a vast amount of material to the debate on how to make schools better.

Yet, 10 years later, we still have mixed results from these efforts, but one thing is very clear. The vast majority of reforms and studies have failed to address the specific needs of girls and young women. We have learned over the years that it is not enough to simply treat girls and boys the same. Different groups have differing needs and bring to them unique gender-related and cultural-related experiences which must be factored into the equation of how best to educate all students.

For example, studies have shown that girls learn better in a collaborative or cooperative environment, yet many teachers still use competitive classroom structures, favoring students who raise their hands or call out an answer first. In fact, I think that's the kind of student I was. I'm sure of that. This style favors boys, who call out, on average, eight times more than girls.

Today I will introduce the Equal Education Information Act, to require that educational data be collected and cross-tabulated by sex within the categories of race, ethnicity, and socioeconomic status. My bill also requires that this data be reported so that researchers and reformers can analyze it and make recommendations accordingly, and include that in all of our education reform in the future.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Lynn C. Woolsey follows:]

STATEMENT OF HON. LYNN C. WOOLSEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman. I want to express my gratitude for scheduling this hearing on such an important topic and for your very *real* support and leadership. Because I have a bill that is part of the larger women's education package, I can say I am delighted to be a part of this positive effort to make education work for ALL students, including girls and young women. For too long, they have been left out of the education equation.

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Currently, most published data from studies like the National Educational Longitudinal Survey include a breakdown by sex and one by race, but do not include cross-tabulations within those categories. Thus, thorough analysis is not being done. But it should, because some preliminary findings when such data is analyzed produce informative results.

Data that was collected by the Longitudinal Survey, but not analyzed until the American Association of University Women's report came out last year, shows that low-income girls, regardless of race or ethnicity, have higher achievement levels than low-income boys. This pattern is reversed for higher-income girls. This finding points to important research questions about motivation, incentives, and resources. Information like this is vital if we are going to sort out the causes of differing educational achievement, and evaluate the effectiveness of Federal programs.

Chairman KILDEE. Thank you very much.

Ms. English.

Ms. ENGLISH. Thank you, Mr. Chairman. I didn't prepare questions or a statement, but I, in listening to the comments, wanted to share a little story. I think one of the problems we have in addressing this entire issue is a large component of our population not believing that we still do not have equity.

Most recently, in the Arizona State Senate, in proposing similar types of legislation, having dealt with the university women and a variety of other groups, we were met with an incredible amount of opposition because people could not believe that the equity issue had not already been resolved. You look back a couple of years, and where we are now, and you do see great strides, but they are not as deeply rooted in our philosophies as they should be. They are token types of bandaids. We have a long way to go.

With that, I am deeply appreciative of the direction we are going, and I also appreciate your leadership on it. Thank you.

Chairman KILDEE. Thank you very much.

Governor Romero.

Mr. ROMERO-BARCELO. Thank you, Mr. Chairman. I would like to say that I am very happy to be here for this opportunity, to talk about eliminating whatever discrimination there is in our school systems against women.

Let me, however, point out this interesting fact—that Puerto Rico is perceived as a macho society but, since I was governor, I started noticing that in our high schools, from two-thirds to three-quarters of the graduates were girls. That was back in 1976 to 1984. Now, the number of students in the universities, in different studies, there are more women than men. Even in science and math, there are noticeable gains, without any changes in the attitudes. That is what is important, what is very significant.

In the School of Engineering, Mayaguez School, the women enrolled in engineering programs is 32 percent of the whole school which, in the Nation, I understand, is 16 percent. It's twice as much. And there have been no changes in attitude. So I'm assuming if we go along with what we should do, obviously, change attitudes also in the system, I don't know what's going to happen to the men in Puerto Rico. I just wanted to bring that up.

Because the whole system has been changed from within. There are more women teachers in the public school system than men teachers. So that has been changed, from the elementary level to the high-school level, and now the same thing is beginning to happen—not quite yet in the university level at home, but the number of teachers are increasing, so that they, themselves, have been changing the system even though there are no guidelines and nothing had been set out for them.

I just wanted to bring that out. Perhaps we should also take a look at why it has happened there faster than it has in the Nation when we have a macho society image. Thank you.

Chairman KILDEE. Thank you.

Mr. Gunderson.

Mr. GUNDERSON. I pass.

Chairman KILDEE. Thank you very much. Any other questions anyone has?

[No response.]

Chairman KILDEE. I want to thank both of you for your continued and continuing contribution to what I consider human dignity. This is really a very important area of human dignity, and I really appreciate your work, your testimony, and look forward to working with you to get this bill reported out to the full Congress. Thank you very much.

Mrs. MINK. Thank you very much.

Ms. SNOWE. Thank you very much.

Chairman KILDEE. Our next panel will consist of Ms. Ann Bryant, executive director, American Association of University Women; Ms. Marcia Greenberger, co-president, National Women's Law Center; and Ms. Walteen Grady Truely, president and CEO, Women and Foundations Corporate Philanthropy. Will they please come to the table?

Ann, it is always good to meet with you and have you share your knowledge and wisdom with us. You may begin.

STATEMENTS OF ANNE L. BRYANT, EdD, EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, WASHINGTON, DC AND CHAIR, NATIONAL COALITION OF WOMEN AND GIRLS IN EDUCATION; MARCIA D. GREENBERGER, CO-PRESIDENT, NATIONAL WOMEN'S LAW CENTER, WASHINGTON, DC, ACCOMPANIED BY ELLEN VARGYAS AND DEBORAH BRAKE; AND WALTEEN GRADY TRUELY, PRESIDENT/CEO, WOMEN AND FOUNDATIONS/CORPORATE PHILANTHROPY, NEW YORK, NEW YORK

Ms. BRYANT. Thank you very much, Chairman Kildee. I am Ann Bryant, executive director of the American Association of University Women and chair of the National Coalition of Women and Girls in Education. That is a group of over 50 organizations which I'm very proud to be able to be the chair of, and that some of them are here today, Girl Scouts; Girls, Inc.; the NOW Legal Defense and Education Fund. My co-chair is from the National Education Association. There were some questions about what was part of that coalition, so I wanted to describe it a bit.

We have talked about how it was more than 20 years ago that the Federal Government first addressed the issue of gender equity in education, through Title IX, but Title IX then addressed more the policy issues, and what we have seen over the last 20 years is that we have a problem in the practices in education. What I think is important about this group of bills and about the reauthorization of the Elementary and Secondary Act is that we are not tackling some of the practices and the programs involved in gender equity.

I have been really a bit awed by the references to the AAUW report, "How Schools Shortchange Girls," but it was, in fact, a landmark study partly because it was so obvious. I think what people's response was indicated that finally someone sort of put it all together. I think it is parallel to this piece of legislation that we are putting all the pieces together, and that is why it is so important.

Toward the goal of the passage of this legislation and the reauthorization of the Elementary and Secondary Education Act, we have a real coalition effort. My colleagues to my right, Marcia and Walteen, are going to talk about various aspects.

I'm going to concentrate on pieces of the Gender Equity in Education Act of 1993, which they will not, and I'm going to look first at the central elements of the classroom, teaching practices and curriculum. Many of you know of Myra and David Sadker's work where they track and, in fact, videotape teachers in the classroom.

For those of you who were able to be at the press conference this morning, we did have Lori Lowe, a real fifth-grade teacher, with us, who volunteered to have that filming take place in her classroom. If you think it's brave to be sitting here as a congressperson being videotaped and filmed all the time, imagine being a teacher and having 2 days of videotape showing whether you have gender bias or not.

I think what is important—and the statistics that have been used are true—teachers do give less attention to girls, calling on boys 80 percent of the time. That is a big differential. Obviously, there are different teachers doing different things, but this is nationwide data.

I think an important example is that African-American girls have less interaction with teachers than all other girls, and yet, less interaction, but they initiate it more. This is the kind of example that I think is terribly important when we look at the piece of legislation that is being proposed by Congresswoman Woolsey on the research and data piece, because if you don't know what the target populations need, you can't address curriculum issues to those target groups.

One of the other issues that we have to address is curriculum. I notice that Lori brought a book with her she was going to reference, and we heard a story this morning about curriculum and what is in there and what's in the textbooks.

The fact is that the schools today are using textbooks that still have an amazing bias in them, because they don't reflect young girls, women, and minority populations. A 1989 study that looked at the ten most read English books in our high schools showed that one was written by a woman and there was no author from a person of color.

What is the message? The message is, "People like you don't matter." That is the message that these curriculum materials give. As the AAUW poll that we did 2½ years ago showed—"Shortchanging Girls, Shortchanging America"—there is a relationship between self-esteem and the math-science issues. I think that the curriculum issues are terribly important.

I would like to turn to several areas in which the bill addresses specific problems in gender equity in education, and that is teacher training. We heard from Lori this morning that, in fact, teachers now are beginning to recognize that they have perhaps, as one person called it, inadvertent biases. They don't know that they are there, but once it's pointed out to them or once they go through a training session, they want to change it.

Teachers are, in fact, our greatest advocates for kids today. Imagine picking a profession where you are surrounded by children 18 hours a day. They are, in fact, the adult population who cares most about kids. We owe them this training, and the training exists.

Project SEED is a program that stands for Seeking Educational Equity and Diversity. The GESA training that AAUW members across the country—well, in little numbers—we're trying to reach out to teachers. GESA stands for Gender/Ethnic Expectations in Student Achievement. We know these programs work. What this bill importantly does is get SEED grant and funding out to schools so that teachers can take advantage of this.

A major area of the National Coalition of Women and Girls in Education's recommendations is in the area of math and science. We heard this morning about the bill being proposed on math and science. I think it is terribly important to look at some of the issues that have already been referenced this morning on higher-order math skills.

We do know the good news, and that is that girls' scores are beginning to become more equal to boys' in at least the lower levels of math. There is a reason for that. With all respect to the gentleman's comments from Puerto Rico, the fact is that when girls are there, it doesn't necessarily mean they are going to go on to the tougher courses in math and science later in college.

The distinction is related, by one study in Rhode Island, where they looked at young men and women who were equally in calculus and physics, but 64 percent of the men went on to study calculus and physics in college, and only 18 percent of the women. So it is not the brain capability. It is not even the capability as perceived by them in high school, but what are the messages? Why is it worth it to go on in those subjects?

The good news in math achievement is, we know how to fix it. There are better curricula available today. The science gap is increasing, and we know that we need to work on that. The Council of Chief State School Officers' 1990 statistics showed that only 37 percent of biology teachers were female, 22 percent of physics teachers were women. Again, it's a role model issue: What can you do with this subject matter as you go on in life?

Another part of the legislation that is terribly important is the funding of informal and supplementary education programs. We have seen how important these programs are.

Congresswoman Mink mentioned one this morning. The Operation SMART materials that Girls, Inc., has developed are terrific curricula that, in fact, AAUW members all over the country are using in out-of-school experiences for young girls. Our own Ohio AAUW sponsors a BE WISE math and science camp where girls come in the summer for 10 days and get access to computers and mathematics skills. This bill addresses that very important out-of-school activity.

The mechanism to increase participation and achievement by girls in math and science is already in place. Congresswomen Morella and Lowey are, in fact, initiating, through the expansion of the Eisenhower Math and Science Education Act, an increase in this area—again, terribly important, because it deals with teachers and curricula.

The third essential element of educational equity is greater attention to education research. Congresswoman Woolsey has already addressed that. I think it is terribly important to understand that at least 20 years has taught one thing: Neutrality doesn't work. Saying we are going to reach all children just doesn't work.

We have to understand what the special needs of African-American girls are. We need to know what the special needs of African-American males are. We need to know, by gender, by ethnicity, by socioeconomic status, with these different populations, how they can best be served.

WEEA is a terribly important component of this legislation, the Women's Educational Equity Act Program. Walteen is going to address that, I believe, in some greater detail, so I will shorten that part of my presentation.

Finally, I just want to say that this package of legislation helps both boys and girls, and I think that is terribly important. Boys whose abilities are not best suited to traditional classroom structures and practices and who do not see their cultural and racial heritage reflected in the materials they study, they lose connection, too. All students benefit when they have the chance to try new ways of doing things and they are exposed to lives and cultures that are different from their own.

The country's attention is focused right now on education reform, but we know from experience this doesn't last forever. The fact is, now is the time we have to seize what is, in fact, public enthusiasm for tackling the problem of school reform, but we cannot let it get away without looking at the problems of gender equity.

That is why AAUW and my colleagues from the National Women's Law Center and all of the National Coalition of Women and Girls in Education, are really so pleased that you have taken this and you are going to run with it fast. We are promising you that our 130,000 members are going to enlighten your other colleagues and get this through. Thank you.

[The prepared statement of Ann L. Bryant, EdD, follows:]

Anne L. Bryant, Ed.D.
Executive Director

I am Anne Bryant, executive director of the American Association of University Women and chair of the National Coalition for Women and Girls in Education. It is my privilege to represent the 130,000 members of AAUW and the 45 member organizations of NCWGE.

More than 20 years ago, the federal government first addressed the need for gender equity in education through passage of Title IX of the 1972 Education Amendments. The initial gender equity efforts following enactment of Title IX focused on requiring schools to change policies that limited girls' and women's access to education programs. In the ensuing years, despite ineffectual enforcement and limited implementation of federal policy, girls and women have increased their participation and achievement in education.

However, a pattern of gender inequity in school practices persists to this day. Through reauthorization of the Elementary and Secondary Education Act, this Congress has the opportunity to use the lessons of the past two decades to shape more effective federal policies and programs for gender equity in education.

Our nation's school systems are denying our girls an equal educational experience. The inequitable practices that limit the futures of so many girls must be ended. To move toward that goal, AAUW, the National Women's Law Center, and the National Coalition for Women and Girls in Education developed a number of specific gender equity recommendations for the ESEA reauthorization. We worked with the Congressional Caucus on Women's Issues and with a number of members of this Subcommittee to develop the Gender

Equity in Education Act of 1993. We will continue to work with you as the omnibus educational equity package moves through Congress.

The AAUW Report: How School Shortchange Girls, released last year by the AAUW Educational Foundation, provided compelling evidence of the continuing pattern of gender-biased practices in schools. Let me give you just a few examples of the inequities that girls face in school, and how we recommend addressing them through the ESEA.

First, I want to look at the central elements of the classroom -- teaching practices and the curriculum. Myra and David Sadker of The American University and other researchers have extensively documented gender bias in teacher-student interactions. Teachers often inadvertently treat girls differently than boys. They praise girls less for their intellectual work than for qualities such as neatness. Teachers tend to give girls less attention, with some studies showing teachers directing 80 percent of all their questions to boys. This pattern has a particularly severe impact on young women and girls of color. For example, African American girls have less interaction with teachers than all other girls, although they initiate those interactions more often than white girls do.

Curriculum design and materials exhibit both overt and subtle bias against women. Girls still do not see their own lives and experiences or the accomplishments of women reflected in the curriculum. Few of the books studied in most schools are written by women. A 1989 study showed that of the ten books most frequently read in high school English courses, only one was written by a woman, and none was written by a person of color. This absence sends a clear message to girls, particularly racial and ethnic minority girls: People like you do not matter. AAUW's 1990 poll of adolescents and self-esteem showed the impact of that message. Girls' confidence in their academic abilities and their aspirations for the future drop dramatically as they move from the elementary grades into middle and high school.

Compounding this problem is that the curriculum "evades" a number of issues that are particularly relevant to girls' lives, such as dieting, body image, and sexual violence. Girls suffer higher rates of depression and eating disorders than boys, and they are four to five times more likely than boys to attempt suicide.

Now, I would like to turn to several areas in which the bill introduced today addresses these problems. First, the federal government must take action to enable more teachers and other school personnel to have access to gender equity training. Educators want all of their students to succeed, and they are eager to learn how they can create an equitable climate in their classrooms. Training that promotes gender-fair teaching is available. Programs like Project SEED (Seeking Educational Equity and Diversity) and GESA (Gender/Ethnic Expectations and Student Achievement) work. We need to allow schools to use federal education dollars to fund gender equity training. Grants should be awarded to broadly disseminate effective equity training models. The bill also requires more funding for grants to support

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development and dissemination of gender-fair, multicultural curricular materials.

A second focus for NCWGE's recommendations is the area of math and science. It is critical to our nation's economic future that both girls and boys are educated for the jobs of the 21st century, many of which will require higher-order math skills. Department of Labor statistics show that a majority of women are still concentrated in low-paying, traditionally female jobs, which often don't require those skills. In order to compete in the global marketplace of the year 2000, the US will need far more scientists than we are currently producing through our education system. With women making up an increasing percentage of the labor force, our only chance to meet that goal will be if a large percentage of those new scientists are women.

There is some good news in math achievement, where the gender gap is small and declining. However, many girls still lose confidence in their math ability and avoid taking advanced math courses as they move through adolescence and enter high school. Studies have shown that girls' lack of confidence in their math abilities precedes a decline in math achievement in the middle school years. Even girls who do as well as boys in math through high school are less likely to pursue a career in a math field.

In science, on the other hand, the gap in achievement between girls and boys is increasing. Girls and boys take different science courses, with girls more likely to take advanced biology and boys more often taking advanced chemistry and physics. Boys have more out-of-school, science-related experiences than girls. That gap in experience continues in the classroom, where one study found that almost 80 percent of all student-assisted science experiments were carried out by boys. Girls lack role models in the sciences. The Council of Chief State School Officers' 1990 statistics showed that only 37 percent of biology teachers and 22 percent of physics teachers were women.

Informal and supplementary education programs have shown that girls can be enthusiastic about math and science, and be high achievers in those fields. We should learn from the techniques that have worked well in programs like Operation SMART, sponsored by Girls, Incorporated, and the BE WISE math and science camp sponsored by Ohio AAUW, and incorporate those techniques in the formal school curriculum.

The mechanism to increase participation and achievement by girls in math and science is already in place. The Eisenhower Math and Science Education Act was enacted to increase the involvement of underrepresented groups in math and science. Congress must specify that the Act may fund training in gender-fair teaching practices, and that informal education opportunities, such as those funded by community-based organizations, are eligible for funding. In funding model computer education programs, priority must be given to those that demonstrate a commitment to gender equity.

A third essential element of educational equity efforts is greater attention to gender issues in education research. We know many of the symptoms of gender inequities in school, but we need to know much more about what causes those inequities and what remedies are most effective in combatting bias.

There is a tremendous need for more information about how biased educational practices affect different groups of students. Education data must be collected, analyzed, and reported by gender, within race or ethnicity and socioeconomic status. That kind of specific data will give us a better picture of the educational status of all our nation's children and enable us to devise a variety of strategies to encourage high achievement by all students.

The fourth NCWGE recommendation that I want to address is expansion of the Women's Educational Equity Act Program. A strong WEEA Program is critical to effective action to end gender bias in schools. For almost 20 years, WEEA has funded the development of models and materials for improving gender equity in schools. The severe cuts in WEEA funding throughout the 1980s prevented broad dissemination of WEEA materials and programs. Last year, Congress appropriated less than $2 million for WEEA -- one of the lowest figures ever and far below the dollars needed. To increase the effectiveness of WEEA, we must shift the Program's major focus to putting effective strategies in place in individual schools, while continuing the important research and development component.

NCWGE's gender equity recommendations will help both girls and boys. Boys whose abilities are not best-suited to traditional classroom structures and practices, or who do not see their cultural and racial heritage reflected in the materials they study, suffer from the same lack of connection to the school that is experienced by so many girls. All students benefit when they have the chance to try new ways of doing things and are exposed to lives and cultures that are different from their own.

We know that our future as a nation depends on our ability to reshape the education system so that all children can reach their full potential. That is critical to our economy and to our ability to compete effectively in the global marketplace. It is also critical to every one of our nation's children, who have the right to expect nothing less than a fair chance to excel and to achieve their dreams.

The country's attention is focused on education reform now, but experience has taught us that focus will not last forever. We cannot predict when we will have the next opportunity to substantially remake the way we teach our children. Unless the federal government acts now to eliminate educational inequities, we will have squandered the chance to make the future better for all of our children -- girls and boys.

Chairman **Kildee**. Thank you very much.

Ms. Greenberger.

Ms. **Greenberger**. Thank you, Chairman Kildee. I'm Marcia Greenberger, co-president of the National Women's Law Center, and I wanted to introduce two of my colleagues who are with me today—Ellen Vargyas, who is our senior counsel for education and employment, and Deborah Brake, who have made really very substantial contributions in the area of gender equity in education and have brought their talents and skills to looking at this important set of pieces of legislation.

We are particularly pleased to come and testify in support of the amendments to the Elementary and Secondary Education Act that have been discussed here, because the need is so important. Justice demands it. It is in the interests of our country that we see this legislation enacted.

The Center began in 1972, the same year that Title IX was passed, and from that time, education has been one of the priority areas we have focused on because it is so central to the future of our country and to the future of those who live here.

We have all said that it is high time that we put rhetoric to the side and exchange that for action, and that we see this legislation enacted into law. Having these hearings so early in the session and the determination that has been demonstrated by the leadership here is very heartening to us. We know that this is a piece of legislation that can make a major contribution toward achieving gender equity in elementary and secondary education.

In the interests of time, I'm going to ask that my full statement be introduced in the record and just summarize some of the points and, in particular, summarize aspects of the legislation that my colleagues here today are not going to be focusing on, although we think all of the pieces of the legislation are essential. Dealing with it as a comprehensive package certainly not only makes the most sense, but is the way to maximize the effectiveness of each of its parts.

What I want to focus on in my testimony this morning is four elements in the package: The dropout prevention for pregnant and parenting students initiative; the initiative for school-based services; the question of gender-fair assessment, which has been referenced and is so critical; and the need to eliminate sexual harassment in schools.

The problem of students dropping out of school has been studied, has been addressed. Pieces of legislation have been enacted to address it, sometimes with inadequate attention later to making sure that those pieces of legislation are funded and supported. But there is also a common thread with what we have done in the past.

That is, in our efforts, we have generally not paid the attention that needs to be paid to the particular causes of the dropout problem that affect women and girls and, specifically, the role that pregnancy and parenting plays in dropout for young women in our country. It has major ramifications not only for these young women, but for their children and, certainly, for our country more broadly.

Nearly half of the female dropout rate is attributable to pregnancy and parenting. Because young women and men drop out of school at approximately the same rate, pregnant and parenting teens are about 25 percent of all school dropouts.

The risks that are associated with dropping out of school are severe. Young women who give birth to a child before the age of 18 are half as likely to obtain a high-school diploma. Almost 80 percent of all teen mothers who drop out of school at some point and almost half of all unmarried teen mothers who have a child before the age of 18 will never graduate from high school. Only 2 percent of teen mothers enter college. Moreover, the younger the mother and the more children she has, the more likely she is to drop out of school without the resources and skills to compete in today's labor market.

That leads, as is no surprise, to much greater rates of poverty and welfare dependency. The next generation is harmed, as well. Children raised by mothers who do not complete a high-school education face, themselves, a much greater risk of academic failure.

When we look at existing dropout programs, we have seen that they do not adequately serve these women. In fact, the sad truth is that attention to dropout caused by pregnancy and parenting is almost nonexistent in most of these plans. My testimony describes some studies that have been conducted which show that there is little attention to that specific and important cause of dropout, and without specific attention to components of a dropout plan that address the problems of pregnancy and parenting, these young women simply are not being served, and the problem of dropping out continues.

In particular, the kinds of elements that need to be a part of a program include child care, special training and parenting skills in child development, nutrition, prenatal care, financial management, in addition to vocational and career training; scheduling and attendance policies which reflect reality and the fact that these young mothers have medical conditions and responsibilities of parenthood that affect their ability to adhere to the kind of rigid scheduling and attendance rules that schools may have had without realizing their effect.

Case management is essential where the array of social services that pregnant and parenting teens need are coordinated and schools become a part of a coordinated effort to provide these needs. Reentry programs are essential so that there are outreach efforts that are targeted to where young parents are located.

While some important programs may be targeted to recreational teen hangouts, for example, that misses a whole population of young parents who can't be found there but could be found in health care clinics, family planning centers, AFDC or WIC offices, Head Start programs, and the like. So attention to where the targeting programs need to be located is also essential.

Because the history has shown that simply having a dropout program does not lead to that targeting attention, we very strongly support a set-aside of at least 25 percent of Federal resources which go into dropout programs to be targeted to the particular problems of students who drop out because of pregnancy and parenting.

We believe in the end that that kind of targeting and set-aside approach in fact maximizes the most flexibility among the schools and the States in adopting a variety of different approaches targeted to many different populations, and while it assures that attention is paid, it leaves the schools and the States with the kind of flexibility to develop their own programs.

The second issue that I want to talk a bit about and which I, in fact, referenced in the context of dropout programs, is school-based and school-linked services. Because so many of the problems that our young children and young adults face in the schools they bring from the community at large, the schools in fact are an essential component in trying to pull together the kind of social services that are available in our communities and to deliver those services in a more effective way.

The sad reality, as we all now know, is that one in five of our Nation's children live in poverty, including more than half of all children in female-headed households. Minority children are disproportionately affected by poverty. In 1990, 44.8 percent of all African-American children and 39 percent of all Hispanic children were poor, compared to 15 percent of white children.

Minority households headed by women are even more likely to be poor. The rates are staggering there. Poverty rates of households headed by African-American women, 56.1 percent, and by Hispanic women, 58.2 percent. We need to do better.

The proposals and package of amendments introduced that would provide coordinated support to schools for the kinds of support services students need to work with all of the community-based resources is absolutely essential, and linking those services with a coordinated dropout prevention and reentry program would also be essential in making the kind of progress that we have a moral obligation to make in this country.

The third issue that I wanted to take a minute to talk about as well is sexual harassment. There has been discussion about it earlier this morning. Congresswoman Snowe, in particular, talked about the relationship between Title IX, which prohibits sexual harassment in schools, and the important advance in the law by a Supreme Court case that makes damages available for sexual harassment under Title IX, but also the complementary efforts that would be provided in this legislation to give the kind of support and the kind of training and the kind of information so that schools who we hope now have their attentions perhaps piqued by some of these developments can be given the resources and help that they need to address the problems of sexual harassment.

Our testimony talks, too, about some of the recent studies that have documented the extent of the problem. The anecdotal evidence that we receive in our office is extraordinarily distressing. The lawsuits that have begun to be brought tell chilling tales of young women being, in essence, drummed out of classes, being abused by teachers with a callous and an uncaring set of supervisors more often than not.

We do believe that some of that lack of attention is based on a lack of understanding of how devastating the problem can be and the lack of support in terms of how, as a practical matter, policies and programs can be implemented in schools. We have a fair amount of work developed in the employment context, although we know we have a long way to go there, too.

There has been very little attention paid to how schools can deal with problems of harassment that students face from their costudents, the obligations and responsibilities of teachers in the classroom for the behavior of students and, ultimately, the obligation of the administration in the schools. There are answers and suggestions and programs to deal with all of those problems, but they are not widely known in the schools across the country.

Finally, I want to talk a little bit about gender-fair assessments and how serious that problem is. We know that in the school reform effort that this committee is going to be dealing with, that that will be an essential element of the program. Because assessments have had such a devastating impact on the lives and the educational opportunities and the futures of young women in this country, we really can't emphasize enough how important it is that any assessment program not be implemented without an assurance that it measures achievement in ways that are acceptable and that it does so in a fair and nonbiased fashion.

Two of my colleagues, Ellen Vargyas and Kate Conner, did a study and a report that has been published in the "Berkeley Women's Law Journal" that is referenced in my testimony, that talked about the legal implications of gender bias in standardized testing. What was so surprising to many who looked at that article was how little attention has been paid to this problem, how many tests there are that determine the futures of young women in this country where little attention has been paid to whether they measure anything of any value to begin with, and then, when they give the kind of discouraging scores and the kind of slanted advice to young women, not only are they not based on any reality, but the kind of adverse impact that comes as a result of their bias.

We know that the Scholastic Aptitude Test for years has had a substantial gap in the scores that young women and men have, with a 60-point average deficit on the part of young women. The SAT, just to pick that as an example, is designed and its producers describe it as intended to predict first-year college grades. Women do better in first-year college grades than men, so by its own purposes, the SAT is not measuring what its creators intended.

At the same time, we have seen the SAT use proliferate, despite its inadequacies and unfairness. For example, it is used widely across the country. We had a reference to middle school students and the fact that their self-esteem and sense of what it is that they can do in this country is formed in those years.

The SAT is given to gifted and talented students in many schools across the country in the middle school years, seventh grade, to identify those who should be encouraged to take supplementary programs in math and science as well as other programs, and, sure enough, we see the same kind of differential which is steering these young girls away from the kind of supplemental programs that they sorely need and deserve.

It is not just the SAT. We see the Armed Services Vocational Aptitude Battery and different differential aptitude tests being used for counseling young women in all kinds of vocational opportunities in ways that are very biased and without any justification for using those tests. Equally disturbing is the fact that many of the other tests that are used across the country have virtually no information about what their impact is and how they ultimately may steer students inappropriately.

We think that it is absolutely essential that there be development of guidelines setting out the standards which tests must comply with if they are to be worthy of Federal support. In addition to substantive standards, there must be provision for the collection of data sufficient to determine adverse impact, validity, and other elements of a permissible test use.

We do have models in the employment area where there is a concept of published, generally applicable professional standards which are for testing, which are understood by both test publishers and test users. Those standards—if in fact tests are going to be used widely in the educational area, even more widely than they are now—have to be developed carefully. Certainly, it would be inappropriate for this country to rush into expanding the use of testing when our experience with it has been so sorry and the problems with bias have been so severe.

Thank you.

[The prepared statement of Marcia D. Greenberger follows:]

TESTIMONY OF MARCIA D. GREENBERGER REGARDING THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

My name is Marcia D. Greenberger and I am the Co-President of the National Women's Law Center. With me are Ellen Vargyas, Senior Counsel for Education and Employment and Deborah Brake, Staff Counsel. We are pleased to have this opportunity to present the Law Center's views in support of a gender equity agenda for the reauthorization of the Elementary and Secondary Education Act (ESEA) and for other important education initiatives which will come before this committee.

The National Women's Law Center is a non-profit organization that has been working since 1972 to advance and protect women's rights. Founded in the same year in which Title IX was enacted, the Center has for the past twenty-one years sought to assure that girls and women have full and non-discriminatory access to educational opportunities. The Center also focuses on other major areas of importance to women and their families including employment, dependent care, health care reform, reproductive rights, income support and tax reform -- with special attention given to the concerns of low-income women and children.

Working closely with the Congressional Caucus on Women's Issues and Chairman Kildee we have had the privilege to participate in developing a package of legislative proposals which, taken together, will make a major contribution toward achieving gender equity in elementary and secondary education.

Our support of these proposals is fully consistent with our support for a strong ESEA reauthorization which will address the needs of all our children, particularly the most disadvantaged girls and boys, young women and men. Because compelling evidence demonstrates that the educational experiences of girls and young women differ markedly from those of their male peers in certain important respects, it is necessary to address their needs specifically to assure that girls and young women reap the full benefits of their education.

With the Caucus, Chairman Kildee, and the National Coalition for Women and Girls in Education, we support amendments to the ESEA which will:

♦ Target 25% of federal funds allocated to dropout prevention and reentry programs to serve pregnant and parenting students who comprise approximately a quarter of the dropout population but who are too often ignored by these programs;

♦ Provide comprehensive and coordinated education, health and social services in a school-based or school-linked setting to make it possible for high-risk students to complete their education;

♦ Expand the Women's Educational Equity Act program and institute an Office of Women's Educational Equity in the Department of Education to coordinate and promote federal efforts to assure gender equity in education;

♦ Include comprehensive efforts to eliminate sexual harassment and sexual abuse in programs designed to enhance the safety of schools for students and teachers;

♦ Address the underrepresentation of girls and women in math and science by strengthening the Eisenhower Math and Science Act;

♦ Devote a larger share of federal education research efforts to issues affecting women and girls, including the cross-tabulation of data where feasible by sex and race or ethnicity so as to enhance our understanding of the problems confronting women and girls of color; and

♦ Expand training for teachers and parents and leadership programs for students to facilitate efforts to achieve gender equity.

Although it is not yet part of the legislative package introduced today, we also urge the Committee to act to assure that federally supported or certified assessment instruments will comply with professionally developed guidelines requiring that tests are valid, fair, reliable and non-discriminatory.

In the remainder of my statement, I will focus on four of these elements: dropout prevention for pregnant and parenting students; school-based services; gender-fair assessment; and the elimination of sexual harassment. My colleague, Ann Bryant of the American Association of University Women, will address in detail the other four issues.

A. Dropout Prevention

In confronting the overall problem of school dropouts, it is essential to pay particular attention to the needs of students who are pregnant and parenting. These students have an urgent need for educational skills and credentials, yet they are all too frequently overlooked by dropout prevention and reentry programs.

This significant problem has major ramifications for the young women, their children, and society more broadly. Nearly half of the female dropout rate is attributable to pregnancy and parenting. Because young women and men drop out of school at approximately the same rate, pregnant and parenting teens are about 25% of all school dropouts.[1]

1. The Risks Associated with Dropping Out of School

Pregnant and parenting teens are at high risk of dropping out of school. Young women who give birth to a child before the age of eighteen are half as likely to obtain a high school diploma as women of the same race and class status with comparable academic skills who delay childbearing until their twenties. About 80% of all teen mothers drop out of school at some point in time,[2] and almost half of all unmarried teen mothers who have a child before the age of eighteen will never graduate from high school.[3] Although some teen mothers drop out of school before becoming pregnant, most leave school while pregnant or soon after giving birth. Only two percent of teen mothers enter college.[4] Moreover, the younger the mother and the more children she has, the more likely she is to drop out of school without the resources and skills to compete in today's labor market.

The associated economic and social costs are severe. Households headed by single females experience much greater rates of poverty and welfare dependance when the head of the household lacks a high school diploma. In addition, when pregnant and parenting teens drop out of school, the next generation is harmed as well. Children raised by mothers who do not complete high school face a much greater risk of academic failure themselves.[5]

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[1] The Support Center for Educational Equity for Young Mothers, **Improving Educational Opportunities for Pregnant and Parenting Students** at 12 (Sept. 1988), The Academy for Educational Development, **A Stitch in Time: Helping Young Mothers Complete High School** at 20 (1989).

[2] N. Compton, M. Duncan and J. Hrusta, **How Schools Can Help Combat Student Pregnancy** at 18 (National Association of State Boards of Education 1990).

[3] United States Department of Education, **Teenage Pregnancy and Parenthood Issues Under Title IX of the Education Amendments of 1972** at 4 (July 1991).

[4] United States Department of Education at 4.

The educational disadvantages associated with teen parenting fall most heavily on young women from low income families who are more likely to have children in their teenage years. Because African American and Hispanic young women live disproportionately in poverty, these young women are disproportionately burdened by the educational barriers linked to teenage parenthood.

On the other hand, the benefits of continued education for teen mothers are substantial. Teen mothers are more likely to complete high school and delay subsequent pregnancies if they are enrolled in school during pregnancy and after childbirth. Teen mothers who obtain a high school diploma are also less likely to rely on government assistance to support their families.

2. Existing Dropout Programs Do Not Adequately Serve These Young Women

In spite of these well-documented and alarming facts, the evidence shows that existing dropout prevention efforts have failed to address this population adequately. Indeed, attention to pregnant and parenting students is absent from most dropout prevention plans. A survey of nine urban school districts in the United States concluded that although dropout prevention initiatives often cite teen pregnancy and parenting as an important issue, they rarely allocate funds for improving assistance to this group of students.[6] A preliminary survey conducted recently by the National Women's Law Center found that the great majority of dropout programs funded under the School Dropout Demonstration Assistance Act of 1988 are not designed to serve pregnant and parenting teens. Other studies of existing model dropout programs confirm that only a very small proportion of dropout funds are used for programs targeting pregnant and parenting teens. For example, a 1989 survey of twelve geographically diverse schools confirmed that dropout prevention efforts pay inadequate attention to pregnant and parenting students.[7]

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[5] The Center for Population Options, **Teenage Pregnancy and Too-Early Childbearing: Public Costs, Personal Consequences** at 2 (6th Ed. 1992).

[6] The Support Center for Educational Equity for Young Mothers at 2, 7.

[7] M. Nash & M. Dunkle, **The Need for a Warming Trend: A Survey of the School Climate for Pregnant and Parenting Teens** at 5-6 (Equality Center 1989). See also The Academy for Educational Development at 5-6, 20-21.

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1. To Be Effective, Dropout Programs Must Target Pregnant and Parenting Young Women

The literature also confirms that because pregnant and parenting young women have different needs from other elements of the drop-out population, unless they are specifically targeted, pregnant and parenting young women will fall through the cracks in dropout prevention and reentry programs. However, effective prototypes do exist for keeping these young women in school or facilitating their reentry. Such programs should address:

- Child care. The biggest educational barrier faced by school-age parents is the lack of available child care. An effective program for school-age parents should address students' child care needs. Provision of on-site child care is a high priority. But at a minimum, referrals for community-based child care and assistance with transportation are essential.

- Special Training. Pregnant and parenting teens may also need training in parenting skills, child development, nutrition, prenatal care and financial management, in addition to vocational or career training. Such courses can provide pregnant and parenting students with an extra incentive to stay in school while at the same time teaching them valuable life skills.

- Scheduling and Attendance. Pregnant and parenting students face special scheduling and attendance problems due to pregnancy-related medical conditions and the responsibilities of parenthood. Dropout prevention programs targeting this population should have flexible scheduling, attendance and tardiness policies to accommodate these needs.

- Case Management. Pregnant and parenting teens need a wide array of social services, requiring coordination between schools and service providers. Obtaining services such as child care, prenatal care, pediatric care, welfare and job training is cumbersome even for adults. School-age parents need help from specially trained school counselors to gain access to basic service networks.

- Re-entry programs. Traditional recruiting efforts to re-enroll school dropouts do not work for pregnant and parenting teens. Outreach efforts targeting the locations typically frequented by dropouts -- such as recreational teen "hang-outs", workplaces with a young and unskilled labor force, and the juvenile justice system -- will be ineffective in reaching pregnant and parenting teens, who are more likely to be found in AFDC or WIC offices, health care clinics, family planning centers and Headstart programs.

The answer is clear: a substantial percentage of federal dropout prevention and reentry resources, in keeping with the significant representation of pregnant and parenting teens in the total dropout population, must be allocated for programs designed to keep pregnant and parenting young women in school. We urge Congress to play a pivotal role in the lives of these students by approving the proposal that twenty five percent of federal resources going to dropout programs in the aggregate are directed to keeping these young women in school. A set-aside achieves the goal of ensuring that the special needs of pregnant and parenting students are addressed in federally funded dropout prevention and reentry programs without imposing an inflexible requirement on programs which legitimately target other groups of students. For this reason, we support this approach instead of an alternative form of mandate. The costs of failing to educate pregnant and parenting teens are simply too high, both for this generation and the next.

B. School-Based and School-Linked Services

For many of the reasons I have just outlined, but also recognizing the even wider array of problems facing far too many of our young people, the National Women's Law Center supports enactment of a program of school-based and school-linked services. Our concern is particularly motivated by the exceedingly high rate of childhood poverty in this country, generally, as well as its disproportionate incidence in female-headed households.

Today, more than one in five of our nation's children live in poverty -- including more than half of all children in female headed households.[8] Minority children are disproportionately affected by poverty. In 1990, 44.8% of all African American children and 39% of all Hispanic children were poor, compared to 15% of white children.[9] Moreover, minority households headed by women are even more likely to be poor than white households. While the poverty rate of households with children headed by white women was 37.9% in 1990, the poverty rate of households headed by African American women was 56.1%, and by Hispanic women, 58.2%.[10]

One very tangible result of these alarming figures is the ever increasing incidence of students in need of basic -- and accessible -- social and health services to enable them to stay in school and learn. The school-based and school-linked provision of services has the very real promise of substantial enhancement of these young people's ability to complete their education.

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[8] Census, 1990 Poverty in the United States, at 2.

[9] Id. at Table 3, at 18.

[10] Census, 1990 Poverty in the United States, at 116.

As proposed by Representative Lowey and the package of amendments which was introduced this morning, we support a federal program to provide support to schools for necessary support services to students, either on their own or in conjunction with community-based resources. The focus is properly addressed to low-income and educationally disadvantaged young people. Permitted services should address the full gamut of demonstrated needs. Examples include: comprehensive health services, including preventative care, contraceptive information and services, nutrition, and mental health services; child care, including care for the children of students as well as both before and after school programs for the students themselves; substance abuse prevention and treatment: foster care and child protective services; child abuse services; welfare services; juvenile delinquency prevention and court intervention; job training and placement; and alternate living arrangements where appropriate. Case-management services and the provision of "one-stop shopping" can be particularly helpful in enabling students to take advantage of the services which are available.

School-based and school-linked services should be closely coordinated with the dropout prevention and reentry programs which I have discussed earlier. However, because their focus is much broader, they should not be seen as an alternative to such programs unless and until they are fully operational and shown to be effective in keeping pregnant and parenting students in school. In any event, by definition, school-based services are not designed to address the needs of students who have already dropped out and are not a substitute for the need to focus school reentry programs on the needs of pregnant and parenting young women.

C. Sexual Harassment

Sexual harassment is a nationwide and persistent barrier to educational equity for girls and women. Compelling -- and growing -- evidence demonstrates that sexual harassment in education is a pervasive problem which denies women and girls fair and equal opportunity to a broad range of educational opportunities and benefits and, subsequently, life chances. Harassment serves to keep disproportionate numbers of girls and women out of traditionally male fields of study altogether, while severely burdening the ability of many girls and women at nearly all levels of education and in virtually all disciplines to take advantage of important educational opportunities. It also limits employment opportunities for women in education, which not only works to the victim's personal disadvantage but eliminates badly needed female role models. Moreover, it has a particularly damaging impact on the most vulnerable members of our society, girls and women of color and girls and women with disabilities.

Recent studies -- and widespread anecdotal evidence -- confirm these points. They demonstrate that profound problems lie both in the actual harassment and the failure of education institutions to address the issue. For example, the recently announced results of the Seventeen Magazine survey confirm the widespread nature of sexual harassment in our schools. There are other compelling studies as well. "Sexual Harassment: Research and Resources, A Report-in-Progress, November 1991," prepared by the National Council for Research on Women, points to a cross-cultural study of grades K-12 which finds that "sexual harassment is pervasive in all school districts, urban and rural . . ." and, moreover, that "sexual harassment takes on racial overtones." Id. at 18. A second analysis of sexual harassment in secondary schools underscores that institutional mechanisms are not in place to address the problem. It found that students report dramatically higher rates of teacher harassment of students than are reflected in disciplinary actions taken against teachers for harassment. In this study, a small sample of 148 North Carolina High School students reported 90 incidents of sexual harassment during their high school years while fully 65 school district superintendents reported only 26 incidents of teacher discipline for harassment during this same period. Wishnietsky, "Reported and Unreported Teacher-Student Sexual Harassment," Journal of Educational Research, Jan-Feb 1991 at 164.

There is also substantial anecdotal evidence of the problem, including both teacher harassment of students and student to student -- or peer -- harassment. A case in point is the factual underpinning of the landmark 1992 Supreme Court case, Franklin v. Gwinnett County Public Schools, where the Court ruled both that sexual harassment violates Title IX and that monetary damages are available for violations of the statute. Christine Franklin, a high school student, was subjected to a pattern of lewd comments and behavior by a teacher. She was eventually forced, on several occasions, to engage in sexual intercourse with him during school hours and on school grounds. She was devastated emotionally and suffered severe damage to her education. When Ms. Franklin complained to school authorities, their first reaction was to try to persuade her to drop her claim. She persisted and the school ultimately determined that the teacher had engaged in improper conduct. Despite the extreme nature of the harassment and the fact that Ms. Franklin was not the first student to have been victimized by this teacher, the school authorities accepted the teacher's resignation and, in return, promised that they would take no action against him. They thereupon closed the case.

The impact of sexual harassment on a high school student, which is compounded by the school's failure to address the problem, was also experienced by Katy Lyle, a high school student

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in Duluth, Minnesota. Ms. Lyle was the subject of vicious, obscene graffiti on the walls of the boys' bathroom. For 18 months the school failed to even clean the walls, let alone take any action against Ms. Lyle's tormentors. The damage to her education was severe. And these are only two examples among far too many which confront girls and young women in our schools on a daily basis.

We support proposals to assure that the Elementary and Secondary Education Act reauthorization contributes to the effort to eliminate sexual harassment from schools across the country. Legislative efforts to achieve safe and orderly school environments, whether through a safe schools initiative patterned on the National Education Goals, through the Effective Schools program currently in the ESEA, or in any other vehicle, must mandate programs to address sexual harassment and sexual violence along with programs to address drug use and other forms of violence in our schools. By recognizing sexual harassment as the threat to the physical, psychological -- and educational -- well-being of girls and women which it is, Congress can play a valuable leadership role in the effort to eradicate this pernicious form of sex-discrimination.

D. Gender-Fair Assessments

Finally, I would like to address the critical importance of assuring that standardized tests and other assessment instruments supported by federal funds or certified by a federal agency must comport with strict principles of fairness, validity and non-discrimination. These issues may arise in the reform proposal which this committee will consider shortly as well as in the Elementary and Secondary Reauthorization Act. For a thorough treatment of these issues, I commend to the committee a law review article recently published by two attorneys in my office: Connor and Vargyas, "The Legal Implications of Gender Bias in Standardized Testing," 7 Berkeley Women's Law Journal 13 (1992).

Gender bias in standardized testing -- along with other forms of bias -- is a serious and widespread problem. Many standardized tests reflect significant gender differences in scoring. For example, females score, on average, approximately 60 points lower than males on the Scholastic Aptitude Test (SAT). Gender differences are also reflected in tests widely used in connection with vocational education programs including the Armed Services Vocational Aptitude Battery (ASVAB) and the Differential Aptitude Test (DAT). In all of these tests, the differentials are particularly notable for girls and women of color.

Nonetheless, these differences often do not reflect differences in what the tests purport to measure. For example, despite the fact that the SAT is justified as a predictor of first year college grades and women score lower on the SAT than men, women actually get higher grades as college freshmen. Similarly, while women's ASVAB and DAT scores follow very gender traditional patterns -- i.e., female test takers do well in the clerical categories but poorly on the mechanical part of the test -- the tests have little ability to predict a test-taker's actual success in a particular area. Despite these serious limitations, these tests serve as powerful gatekeepers to valuable educational benefits and arbitrarily limit the opportunities of many young women.

Equally disturbing is the fact that comparable information either does not exist or is not publicly available for many other standardized tests widely used in education. The available data, however, strongly suggests that, contrary to the general perception that standardized tests are "objective" and "fair," all too often they are not.

Tests which are biased and/or do not validly measure or predict achievement, do not serve anyone's interest. Before the federal government sponsors, supports or certifies assessments in education, it must take careful steps to assure that the tests will measure the abilities of all students fairly, validly, reliably, and free of bias. In addition to gender, it is critically important to address these issues as well in the contexts of race, national origin, disability and English language proficiency.

This is best accomplished by the development of guidelines setting out the standards with which tests much comply if they are to be worthy of federal support. In addition to substantive standards, there must also be provision for the collection of data sufficient to determine adverse impact, validity and the other elements of a permissible test use.

The Equal Employment Opportunity Commission has administered for many years the Uniform Guidelines on Employee Selection, 29 C.F.R. Part 1607, which provide technical standards for employment tests and which have notably improved the quality of tests used in employment. While standards for educational tests may include additional elements to those included the Uniform Guidelines and may differ from the Uniform Guidelines in other regards as well, the concept of published, generally applicable professional standards for testing which are understood by both test publishers and test users should be no different. Indeed, if this Committee chooses to support curriculum delivery standards to help assure that our children are receiving a world-class education, it is no less important to require that student achievement will be measured only by top-quality assessment devices which comport with professionally developed standards. We urge the Committee to assure that provision for such standards is an integral part of any legislation addressing the use of assessments.

Conclusion

I would like to once again commend the Congressional Caucus On Women's Issues, Chairman Kildee, and the Subcommittee for addressing these critically important issues. We look forward to working together to assure that Congress' promise of gender-equity in education, made twenty-one years ago with the passage of Title IX, finally becomes a reality.

Chairman **Kildee**. Before we go on to the next witness, I just want to comment on your statement on assessments. This issue has already reached this subcommittee as a result of the various organizations that have been here this morning, and they will be addressed in the reform bill which will be introduced tomorrow. I mentioned that at the press conference.

That is very, very important, because we are convinced that there is a gender bias. We are actually calling very specifically for field testing those tests to make sure that we keep going over and over again until we arrive at where we have eliminated that gender bias.

So already the groups that were represented at the press conference this morning and represented here at the hearing this morning, the influence has already been put into the reform bill which will be hopefully introduced tomorrow. Then, of course, all these other things will be reiterated and put into the ESEA bill.

Thank you very much.

Ms. **Greenberger**. We are very heartened to hear that and know, through your leadership, certainly, and Congresswoman Mink has been involved in this issue for many, many years, it is no accident that we began to look at it. It was because of her guidance that we first had our attention turned to this as a problem a number of years ago. So this is something that we have seen, firsthand, cause real problems, and are looking forward to working with you as this legislation proceeds.

Chairman **Kildee**. Thank you.

Ms. Grady Truely.

Ms. **Grady Truely**. Good morning. I'm Walteen Grady Truely, president and chief executive officer of Women and Foundations/Corporate Philanthropy. Our organization was founded in 1974 and is a professional association of grant-makers who advocate for greater responsiveness to the needs of women and girls within philanthropy. We are an affinity group of the Council on Foundations.

I'm here today speaking on behalf of the NOW Legal Defense and Education Fund. The Fund was established in 1970 to secure equal opportunity for women and girls in every area of American life. The fund pursues equality in the workplace, the schools, the family, and the courts through legal, education, and public information programs.

I'm here today because I directed the Fund's Project on Equal Education Rights from 1990 to 1992. During that time, I served as co-chair of the WEEA Reauthorization Task Force of the National Coalition of Women and Girls in Education with Dr. Leslie Wolfe, executive director of the Center for Women Policy Studies. The coalition was founded by PEER right after the passage of Title IX to ensure the implementation and enforcement of that key legislation.

I'm really pleased that we are moving in the direction of an omnibus piece of gender-equity legislation, because the main limitation of early efforts to achieve sex equity was that local model programs were not given enough time or resources to become institutionalized. I speak on that from a background that includes a history as a classroom teacher of high school, where I developed a pilot curriculum in women's studies in Prince Georges County, Maryland.

I have also worked for a number of years as a teacher-trainer and felt again the deficit in resources that we had available to do training within the schools. I was a WEEA grantee and worked in coordinating the project director's conferences from that first generation, shall we call it, of WEEA grantees, who were desperate for resources to do the tremendous job that they set out to do very valiantly.

I worked for 6½ years as gender-equity coordinator for the New York City public schools and experienced firsthand the efforts to implement WEEA in the largest city school district in this country, and again, I cannot emphasize strongly enough the tremendous need for this comprehensive piece of legislation.

I just have to stop and applaud, in particular—all of the provisions are very meaningful in a special way. I'm very pleased, Congresswoman Woolsey, at the information piece and our role in administering a school district the size of the New York City public schools. The lack of information and the lack of a mandate that drove the collection of that kind of data really hampered our efforts to really hold ourselves and our colleagues accountable in terms of dealing with these issues.

So the fact that we're approaching data collection, recognizing that we need to know—not only by gender, but by race and gender and socioeconomic status—who our children are and what they need, in a very targeted way, is extremely critical. I'm very pleased to see that be a part of this legislation.

I'm speaking to you today en route to the 16th annual meeting of Women and Foundations/Corporate Philanthropy, and I am focused on the central role of education in shaping women's paths to success, particularly for women of color. Our 1993 report, "Women and Power: The Quest for Equality" notes that: "The power of education is not limited to just acquiring a degree: educational institutions can inform, politicize, and empower women of all races in ways that few . . . organizations can. . . ."

It is with that idea that I recommend that the Federal Government provide resources to end gender and racial bias and stereotyping in our Nation's schools. With this year's reauthorization of the Elementary and Secondary Act, including the landmark Women's Educational Equity Act, Congress has an opportunity to enforce the mandate that schools comply with Title IX.

Congress has fought very hard in the last 10 years to maintain WEEA, and we have been astonished, frankly, at the tenacity of this very small but very critical program as it was reauthorized, kept alive with allocation of half a million dollars a year. In the face, again, of the need that all of my colleagues have documented in their discussions before you today, you know that that's less than a drop in the bucket of what is needed.

So, Congresswoman Mink and the Congressional Women's Caucus, we are so pleased to see you coming together with this committee to pull together the kind of level of resources that shows that we take this issue more seriously than just an afterthought, in terms of the education of our children.

I'm going to ask that my full statement be entered into the record, and there are just a few points that I would like to emphasize.

I particularly want to stress in our set of recommendations the importance of full funding for implementation and research, and to really emphasize the importance of local school participation in defining its own objectives. That's the way you get by into these Federal programs.

Those of us who have worked at the local school level know that we really have to maximize participation. The whole move within public education generally is for school-based management and leadership, and that is what we have to see if this or any other piece of legislation is really going to be owned by the people who have to implement it and practice it.

I want to talk a minute about the need to address gender and race equity. I'm sorry that the Congressman from Puerto Rico was not able to stay with us. This issue of gender and race equity, particularly as it pertains to boys of color, has been an issue with which I've been involved for a number of years.

I have a 7-year-old son at home who knows that his mom is today testifying before Congress, and I think that he is going to grow up with a very clear sense of equality in our household. I think it is important, though, that we take into account that there has been an assault on working people in this country, and particularly communities of color, and that women have borne the brunt of holding families together.

The solution to the attacks on men of color is not only to support women's equity legislation. I've been nudging my male colleagues about the need to up the ante on their own demands for equity in making sure that boys get the kind of education they need to address issues of concern and need and deficit for them. This legislation is not only about women, it's about all of us.

One key fact that I want to highlight from my testimony is that, by the 12th grade, 30 percent of white females, 67 percent of African-American females, and 53 percent of Hispanic females have below basic skills in math; and 27 percent of white males, 64 percent of African-American males and 57 percent of Hispanic males have below basic skills in math.

Again, I want to emphasize that there is a strong sense within our coalition that the problems that we're facing are problems of combined bias, by race and gender, and we need, again, the kind of sensitive data collection that makes it very clear who we're targeting for our special programs and efforts.

I want to take a minute to talk about the Women's Educational Equity Act. I had the pleasure and the distinct advantage, I think, of having been part of that program and really having a chance to see how the program lived and breathed, and I just want to share some of that with you today.

You may not know, for example, that we had no Women's History Month until WEEA funded the development of Women's History Month. Today we take for granted that it's part of our national culture, and yet, it was WEEA that promoted the development of that.

WEEA spearheaded the development and creation of Educational Equity Institutes around the country. Much of the important work that has been done by David and Myra Sadker, which we have seen on the Donahue show and we've seen in a number of the mass media, was funded initially when they were two professors working at American University, working very valiantly to get the message out. Again, it was WEEA that provided the kind of resources that made their work visible, and it has garnered the kind of attention that WEEA deserves.

WEEA grants enabled community groups to work with schools to assess the delivery of vocational and technical education. As an administrator in the New York City public schools, I was approached—I was actually hired—because community groups who had WEEA grants nudged the system to do an assessment of the representation of girls in our vocational and technical programs, and we then had the responsibility to do something about it. We needed that push from the outside that community organizations, with WEEA support, were able to give us, and it's absolutely critical.

WEEA can provide and has provided for the development of multicultural and nonsexist curricula and projects, and we know that these are desperately needed in the face of growing violence and conflict based on race and gender in our schools.

My colleagues have spoken at length about the need to address the issues of sexual harassment, sexual assault, and rape. The 1993 survey, "Secrets in Public: Sexual Harassment in our Schools," cosponsored by the NOW Legal Defense and Education Fund and the Wellesley College Center for Research on Women, found that 89 percent of respondents to the survey which was published in "Seventeen Magazine" received sexually harassing gestures, looks, comments, or jokes; 83 percent were touched, pinched, or grabbed; and only 8 percent reported that their school had and enforced a policy on sexual harassment.

I have to pause again and again refer to my experience within the New York City public schools to tell you that we're dealing with systems of people who are not malicious and don't have a malicious intent towards children. But where we have massive demands on our time, particularly in the public education system, we need the push of high-level policy attention on these issues to see that actions are taken. So again, this legislation is extremely important.

In the study by the NOW Legal Defense Fund on dropouts in the Philadelphia public schools, one of the factors that young women cited for dropping out was harassment in the halls by their male peers and by adult teachers and counselors. One of the things they said when they were asked to verbalize what would be an ideal educational environment for them was, they said, "We'd like to be able to walk through the halls where boys would look at us in the eyes and in the face instead of behind our backs and make comments."

I think that that, more than anything else, says very poignantly what kind of intimidation many of the young women who become dropouts from our schools are confronting and why it is desperately important that we address this issue of climate in the schools.

Again, I want to highlight or add to the fact that we have people who, with WEEA money, developed pilot projects that addressed children and girls with disabilities and the needs of children of color. Those pilot programs exist but, without the resources, school districts can't bring them in to do the training necessary or replicate the materials.

WEEA grants developed and modeled diversity, cultural diversity for women of all races. Again, those materials needs to be in the hands of classroom teachers, where they can do the most good.

In my own community, within Philanthropy, Wednesday, some of you may know, is Take Your Daughter to Work Day. I hope that there is participation here. I think it would be a wonderful opportunity for young women to have the chance to see how a government works, closehand. That just demonstrates, I think, that there's a broad level of commitment and understanding of the need for nonsexist occupational education.

My colleagues have talked about the need for teacher education and training. Again, this is something that is absolutely critical. I wanted to mention that the retention efforts that WEEA programs have developed is something that, again, a model exists. We just need to get it out. We can get it out with the implementation and the resources.

NOW Legal Defense and Education Fund's Project TEAM, for example, works to develop local collaborations between advocates, educators, service providers, and policymakers to increase support services that will enable teen parents to graduate from high school. WEEA funds can foster the development of programs like this.

Finally, education to prevent sexism, racism, and homophobia, with curricula that include women and people of color, works to reduce sex role stereotyping. Education that prepares women to take leadership in math, science, and technology fields advances the entire society.

Education that reduces the tendency of men to overlook women's talents and experience promotes cooperation rather than conflict between the sexes. Education to increase earning power for women and to reduce the feminization of poverty benefits our entire society.

Education that meets the health and emotional needs of youth and that reduces gender-based and race-based violence and harassment promotes peace. Gender equity in education teaches young people to value each other and work well in a multicultural society and economy.

Thank you for providing us the chance, through this legislation, to address persistent barriers to women's equality. I join with you and my colleagues throughout the country in its support. Thank you.

[The prepared statement of Walteen Grady Truely follows:]

TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

APRIL 21, 1993

REPRESENTATIVE DALE KILDEE, CHAIR

WALTEEN GRADY TRUELY, PRESIDENT/CEO,
WOMEN AND FOUNDATIONS/CORPORATE PHILANTHROPY

Executive Summary

This nation needs a new vision for women's educational equity. Congress should take the lead by: 1) fully funding implementation and research grants under the Women's Educational Equity Act Program, 2) establishing an Office of Women's Educational Equity that reports directly to the Secretary of Education and 3) passing legislation that targets teen parents for dropout prevention programs; encourages gender and racial equity in math, science and computer education; mandates that teacher education include gender equity and requires research in education to present data based on gender, race and ethnicity.

Federal leadership in the passage of Title IX of the Education Amendments of 1972 and establishing the WEEA Program in 1974 had a tremendous impact in affirming equal education rights for women and girls. Today, active leadership is needed to address the complex issues of gender and racial equity in our nation's schools. A strong federal program for Women's Educational Equity will offer solid support for programs that aim to increase the ability of all women to achieve economic self-sufficiency, curtail the tragedy of the feminization of poverty and move women into leadership positions in society.

Good morning. I am Walteen Grady Truely, President/CEO of Women and Foundations Corporate Philanthropy (WAF/CP). WAF/CP, founded in 1975, is a professional association of grantmakers which advocates for greater responsiveness to the needs of women and girls within the foundation community. We are an affinity group of the Council on Foundations.

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I am speaking today on behalf of the NOW Legal Defense and Education Fund (The Fund). The Fund was established in 1970 to secure equal opportunity for women and girls in every area of American life. The Fund pursues equality in the workplace, the schools, the family and the courts through legal, education and public information programs. I directed The Fund's Project on Equal Education Rights (PEER) from 1990 - 1992. During that time I served as co-chair of the WEEA Reauthorization Task Force of the National Coalition for Women and Girls in Education (NCWGE) with Dr. Leslie Wolfe, Executive Director of the Center for Women Policy Studies. NCWGE was founded by PEER to advocate for the implementation and enforcement of Title IX of the Education Amendments of 1972. The main limitation of early efforts to achieve sex equity was that model programs were not given enough time or funding to become institutionalized.

Speaking to you today enroute to the 16th Annual Meeting of Women and Foundations/Corporate Philanthropy, I am focused on the central role of education in shaping women's paths to success, particularly for women of color. Our 1993 report "Women and Power: The Quest for Equality" notes that:

> The power of education is not limited to just acquiring a degree: educational institutions can inform, politicize, and empower women of all races in ways that few other organizations can do."

It is with that thought that I recommend the federal government provide resources to end gender and racial bias and stereotyping in our nation's public schools. With this year's reauthorization of the Elementary and Secondary Education Act, including the landmark Women's Educational Equity Act (WEEA), Congress has an opportunity to enforce the mandate that schools comply with Title IX, the law that prohibits gender discrimination in federally funded programs.

Since 1974, Congress has supported and saved the WEEA program from cut backs that threatened to eliminate it entirely. Today, more that ever, the federal program is needed to provide resources that will enable schools to realize the full intent of the law. Congress should expand the WEEA Program to include implementation grants -- to institutionalize gender equity programs in our public schools. We have ample evidence that such programs are urgently needed.

Recommendations

The agenda for achieving full educational equity for women and girls in this nation is still unfulfilled. We can complete that agenda though supporting the following actions:

- Expand the WEEA program to provide full funding for implementation and research grants -- to enable local schools to institutionalize comprehensive gender equity programs that are based on community needs.
- Establish a federal office of Women's Educational Equity which will report directly to the Secretary of Education to oversee implementation of the Women's Educational Equity Act and report annually on progress toward the achievement of educational equity for women and girls at all levels of education from pre-school through postgraduate and adult.
- Involve local and state education agencies, nonprofit service organizations, women's advocacy organizations and community-based organizations in planning, implementing and evaluating gender equity projects.
- Implement preservice and inservice training programs for educators involved in all levels of the education system.
- Support innovative approaches to educational equity programs which address combined bias, stereotyping, discrimination on the basis of sex and race, national origin, limited English proficiency, or disability.
- Fully fund and endorse legislation that: prohibits and prevents sexual harassment in schools; targets teen parents for dropout prevention programs; encourages gender and racial equity in math, science and computer education; and mandates that teacher education include gender equity.
- Support grants for programs which address the combination of education, health and social service needs of both female and male students.
- Support grants for gender equity programs that build in the participation of education, business and community leaders.

Women's Equity: The Unfinished Agenda

Our failure to achieve women's equality is the story of girls and women whose access to quality education is limited by persistent discrimination, bias and stereotyping on the basis of gender. The barriers that cause inequities in our schools impact on the ability of many women to maintain economic self-sufficiency in our competitive economy. Consider the following facts:

- Single mother families are the fastest growing segment of our nation's homeless population, and more that 75% of people living in poverty are women and children.
- Girls' self-esteem plummets between preadolescence and the 10th grade.
- Women represent 54% of all students enrolled in college, yet they are only 27% of the faculty. In 1988, there were 296 women who headed colleges nationwide, 1.2% were women of color.
- Many bright and shrewd young women choose to drop out of school because they see no genuine hope for rewarding future careers to be achieved by staying in school.

Addressing Gender and Racial Equity

The racial disparity between the education of white students and African American and Hispanic students, particularly in gateway subjects such as math is disturbing and shocking. In 1992:

- 3% more white females and African-American females scored below basic levels in math than did white males and African-American males.

- By the twelfth grade: 30% of white females, 67% of African-American females and 53% of Hispanic females have below basic skills in math; 27% of white males, 64% of African-American males and 57% of Hispanic males have below basic skills in math.

Also shocking, given that research shows no difference in innate ability, are the extreme gender and racial gaps in course selection, career paths and test scores.

- 7.6% of all males took calculus in 1990 and only 4.7% of all girls did.
- A greater percentage of eighth-grade girls than boys report that they never used computers or wrote reports or projects in their math class.
- On the 1992 SAT's women scored on average 45 points lower on the math component than did men who were in the same college-bound track.

A WEEA for This Generation

My experience suggests that the implementation of a new WEEA is essential to empower those working to achieve equity for women and girls in education. Federal leadership on gender equity in the 1970's provided incentives for my school district to ask me, as other teachers were asked across the nation, to develop curricula that highlighted women's achievements. Federal leadership provided incentives for a women's advocacy organization to develop a program that aimed to inform teachers of strategies and resources to achieve fairness in their classroom. Such leadership also led the nation to recognize March as Women's History month.

WEEA spearheaded the creation of educational equity institutes around the country. These institutes provided school administrators, teachers librarians and guidance counselors with resource materials to develop new approaches to infusing equity in schools.

The first generation of WEEA grantees developed pilot curricula for non-college bound students, providing information about alternative training programs and career paths. WEEA grants enabled community groups to work with schools to assess the delivery of vocational and technical education. WEEA grants helped schools to implement gender equity in physical education programs.

A Stronger WEEA for Today's Public Schools

In a country increasingly rife with conflict, WEEA can provide for the development of multicultural and nonsexist curricula and projects. With funding and support, school districts can develop programs and policies to ensure that achievement levels of students are monitored by gender. Strong WEEA legislation could provide support for programs that help girls and boys gain access to educational technology, to develop skills in math and science.

Educational equity legislation could provide support for training and technical assistance that would work to prevent and eliminate sexual harassment, sexual assault and rape. Girls have the right to an education free from hostility and intimidation; yet all too often schools lack programs, policies and training to comply with the law.

The April 1993 report of a survey, Secrets in Public: Sexual Harassment in our Schools, co-sponsored by the NOW Legal Defense and Education Fund and the Wellesley College Center for Research on Women found that 89% of respondents to a survey published in Seventeen Magazine received sexually harassing gestures, looks, comments, or jokes; 83% were touched, pinched or grabbed; and only 8 percent reported that their school had and enforced a policy on sexual harassment. A report "Rape in America" researched by the National Victim Center identified rape as a youth issue finding that 29% of all forcible rapes occurred when the victims was less than 11 years old, while another 32% occurred between the ages of 11 and 17. Schools need programs to address and prevent gender-based violence in our society. Boys and men need an education that prepares them to work with women on the basis of respect and equality. WEEA can support such work.

Recommendations to Strengthen the WEEA Program

A WEEA with maximum funding for implementation grants will support the development of comprehensive programs to promote gender equity. All girls require an education that will meet their needs at every academic level and in multiple areas, so that throughout their schooling, education works to increase, not decrease, their self-esteem and to foster the full development of their skills and potential.

WEEA programs are needed to address the restrictions imposed by early sex-role stereotyping and provide special attention to the needs of children of color and girls with disabilities. By the time children are six or seven, they have clear ideas about gender, based on what they see in the world around them. Research has found that both girls and boys strive for conformity with gender-stereotyped roles. Racial and ethnic stereotyping may further reinforce these restrictions. Effective programs, such as Educational Equity Concept's project to address sex-role stereotyping in early childhood science education, are excellent ways to address these issues.

A WEEA grant could be provided for the development of curricula that provides role models for all students and includes diverse history and perspectives. Research has found that curricula that includes the role and impact of women scientists has a dramatic impact on the interest level and subsequent achievement of girls. Programs such as Operation SMART, developed by Girls Inc. encourages girls to love science by offering hands-on activities in informal settings. The upcoming "Take Your Daughter to Work Day" sponsored by the Ms. Foundation is an exemplary effort to encourage parents to take the career development of their daughters seriously. WEEA funds can support national replication of these models.

WEEA could support teacher education programs that provide training in skills to promote gender equity. "Teachers have been found to give boys more praise, more criticism, more remediation and to be more apt to accept boys' responses. Boys report more favorable adult attitudes toward their participation in math than do girls. Other research has shown that teachers exhibit lower expectations for students of color and students with disabilities than for white students. Model teacher education programs, such as Gender/Ethnic Expectations and Student Achievement (GESA), promote an increased knowledge of equity issues and the development of action plans for an inclusive approach to excellence. WEEA funds could support the equity training in teacher education programs.

WEEA funds can support programs that encourage teen parents to stay in school. Without a high school diploma, parenting students have greater difficulty securing decent employment.

Forty percent of female dropouts are teen parents. AFDC payments continue go disproportionately to families established by teenagers. In turn it is often educational and economic status, rather than non-traditional family structures, that negatively affect both adolescent parents and their children. Research shows that young mothers are more likely to complete high school if they are in an educational program during pregnancy and soon after birth.

Furthermore, early pregnancy can be prevented by providing young girls with a quality education. Marian Wright Edelman of the Children's Defense Funds asserts that a real future is the best birth control. Research has confirmed that low academic achievement, along with family poverty, are the two most important predictors of teenage pregnancy. One half of all pregnant and parenting teens dropout of school before they become pregnant. The NOW Legal Defense and Education Fund's Project TEAM (The Education of Adolescent Mothers) works to develop local collaboration between advocates, educators, service providers and policymakers to increase support services that will enable teen parents to graduate from high school. WEEA funds can foster the development of programs such as this one.

Education to prevent sexism, racism and homophobia with curricula that includes women and people of color works to reduce sex roles stereotypes. Education that prepares women to take leadership in math, science and technology fields advances the entire society. Education that reduces the tendency of many men to overlook women's talent and experience promotes cooperation rather than conflict between the sexes. Education to increase earning power for women and to reduce the feminization of poverty benefits our entire society. Education that meets the health and emotional needs of youth and that reduces gender-based and race-based violence and harassment promotes peace. Gender equity in education teaches young people to value each other and work well in a multicultural society and economy.

WE HAVE A CHANCE IN THIS LEGISLATION TO ADDRESS AND ELIMINATE PERSISTENT BARRIERS TO WOMEN'S EQUALITY. I JOIN WITH YOU AND MY COLLEAGUES THROUGHOUT THE COUNTRY IN ITS SUPPORT. THANK YOU.

Chairman **Kildee**. Thank you very much for your testimony. You mentioned your 7-year-old son, and I mentioned my daughter this morning during the press conference. I have two sons, also. I know my wife and I always, when they were growing up, tried to make sure the two boys had positive attitudes towards themselves and towards their sister, and their sister had positive attitudes towards herself and towards her brothers. I think we've been successful in that.

It is very important in the school and the family, everywhere. I can recall, as a matter of fact, one time when the kids were, I think they were 3, 4, and 5 years of age, and my wife and I were flying into the Washington area, and the cabin attendant came by and gave my two sons pilot wings and gave my daughter cabin attendant wings. My wife said to the cabin attendant, "I believe she would prefer the pilot wings."

There are so many subtle things that go on in the schools and business, everyday life, where there is a bias toward females that we have to be very, very sensitive to. The school is not immune from that. We know that. The school very often reflects what is going on in the rest of society. But the school should be a leader and not just one that reflects.

Your testimony has been very, very helpful this morning, all of you. Particularly when you mentioned your son, it brought to mind what we try to do in our own family.

Do the differences in the SAT scores mainly reflect a gender bias in the SAT, or are these differences indicators of broader problems in elementary and secondary education, or a combination thereof? Have you analyzed that much, to determine that?

Ms. **Bryant**. Certainly, it is a combination, but, as Marcia stated, the SAT is designed to try to predict college success rate, and the fact is that it overpredicts young males' success rate and underpredicts females'. So that specific exam is known to have problems.

We also know you can create fair tests, so we are not asking for nirvana here. We know that if you put substantial resources behind the testing of the test—and, as you mentioned, field testing is one part of it, but there are pretty sophisticated mechanisms now to, in fact, sort questions and do analysis of questions—you can come up with a fair test.

It is a combination. I remember one of the examples used was in the writing of some of the earlier mathematics SAT tests, and I think all of us remember the example of, "Truck A leaves Denver and Truck B leaves Boise, and one is going 50 miles an hour and one is going 70 and where do they meet?"

When they did some testing of inserting female athlete runners, Jackie Joyner Kersey and Joanie Benoit, from those two cities, the scores of the girls went up. So it is a simple little example, but it is the kind of sensitivity that we need to put forward in all of our testing.

You may want to address the technicality of it, Marcia.

Ms. **Greenberger**. I think there is certainly a lot of controversy about what is behind those test differentials, and I think that certainly one of the things that we have to look at is, what is the test for. And if, in fact, it is a test to predict success at a later stage and the test doesn't do that, which is clearly the case with the SAT, then we know it's a problem.

The test is measuring some difference. What's the relevance of the difference? What is it actually showing? That's where the controversy lies. I know in the context of the use in the seventh grade, which is a particularly alarming example of the proliferation of tests for tests' sake, that don't really even make any sense, the way that the students are chosen to take the SATs is based on basic achievement tests that are given to the kids in seventh grade. And an equal number of girls and boys qualified based on their achievement and how much they've actually learned in the seventh grade to take the SAT.

It doesn't seem, whatever it is it may or may not be measuring, it's not necessarily measuring what they've actually learned at that point. There are also a lot of theories about techniques of test taking and the difference of approach between young women and young men, whether young women are as willing to take chances, whether they are as quick in their answers and their thought processes, whether that's the way they approach it or they approach it in a different fashion, whether they see answers in quite the same kind of yes and no terms that some of the standardized tests force thinking into.

There are a lot of different possible components that may yield differences in test scores that have nothing to do with aptitude, have nothing to do with achievement, have nothing to do with predictors of future success. There are some who say it does have to do, that there are some differences in aptitude as well. But we have so much of the other overlay that we know that work, that it's very hard to find out how much there really may be that difference. As tests are refined and as attention is being paid to them, sometimes that differential also is eliminated.

I might also say that there are particular problems in the testing area, when you combine race and gender. Then the disadvantages become even more unfair and more egregious.

So there are any number of problems with the way the whole assessment system has been operating, and I think that there is probably a fair amount of unanimity that we could do much better, both in having tests that measure what kids really know, what their real aptitude is, and then, to identify if, in fact, there are some learning differences which, hopefully, if there are such differences, we'd like to have the tests identify, then figure out how to address them properly.

Chairman KILDEE. In the bill which we are going to introduce tomorrow on standards and assessment, and the school reform bill, we will create a council that will help on voluntary content standards and school delivery standards, and be involved in assessment. I certainly would hope that the membership of that council, first of all, would reflect the demographics of our country gender-wise.

I think, very often, right from the very beginning, we can build in an unrecognized bias. As a matter of fact, you know, in my own life and probably all our lives, if we discover a bias in ourselves and recognize it, then we have a better chance of trying to remedy that, but when we have an unrecognized bias, it's just as damaging but far more difficult to remedy.

I would hope that, in that council, which the President would appoint, that we do recognize all the elements of demographics in our country, including gender.

Yes, Ms. Bryant.

Ms. **Bryant**. Actually, Marcia and I went to meet with Deputy Secretary Kunin to point out that that council specifically should be made up of people sensitive to the issues of gender and race. We didn't call for quotas, but I'm glad to hear you calling for them.

Ms. **Greenberger**. I don't know if I heard that, but I do think that having expertise in these problems, as well as a balance—that there is a balance of membership in a lot of different ways. I think you are right, Chairman Kildee, that looking at the membership is very important and, in particular also, to make sure that there are some that are on that council who have expertise and background in some of these kinds of problems of bias that have come about with tests in the past.

Chairman **Kildee**. I always distinguish between what I call knowledge and realization. You might know something but not have it real in your life. For example, I knew quite well of the poverty in India, but I did not realize it as much until I stood on the Jama Masjd steps in Old Delhi and saw people starving to death in front of me, and probably I would have realized it in another dimension, were I one of those starving to death. There is a difference between knowledge and realization.

Yes.

Ms. **Grady Truely**. Mr. Chairman, I was just thinking that one of the issues of concern to us with the SAT is the fact that the closest predictor of achievement is family economic status. So when you talk about the need to have a committee that reflects demographics and composition, it's probably important to make sure that you're being inclusive of people who have had that experience of being underpredicted because of their own particular class background, as well.

I think that tends to be the hardest area of representation for all of our groups working, and it's something that is the basis for the growing problem in our society, and so I'd like to see that kind of inclusion.

Chairman **Kildee**. Thank you. Thank you very much for that. Lynn.

Ms. **Woolsey**. I want to thank you for being here today. You make—the panel before and this panel—make me know why I love this job so much. I came here to do exactly what you're talking about, and you give me confidence that it's not just the members of the House of Representatives that I hang around with, my colleagues, that agree with me, but you out there care and are going to help us make these programs work.

You talked, Walteen, about the National Women's History Month. That started in my district and, as a matter of fact, I chaired the Commission on the Status of Women in Sonoma County when that project came out of our commission. I'm really proud of that, and I've been working on these issues forever.

What I want to say is that I'm going to challenge you on something. We do have gender and ethnic fairness assessment written into the new education reform, and we do have whole sections on coordinated support services. But my challenge to you is that it not become rhetoric. The challenge is ours, also, but it's going to be the public's, it's going to be the education system's, that it become practice, because we don't want, 20 years from now, like with Title IX, to be talking about, why didn't this do enough.

Let's focus on it. You push us, you use those words and push the education system and our States to take advantage of this language. Thank you for being here.

Ms. BRYANT. Could I just respond?

Chairman KILDEE. Sure.

Ms. BRYANT. That challenge is a very important one. One of the things that AAUW has been concentrating on is implementing the 40 recommendations in that AAUW report. I have to admit that when we laid them out, 40 recommendations seemed a bit much.

But we have had 44 State roundtables in the last year. That is 44 summits of leaders in education coming together, certainly catalyzed by AAUW, but leaders from the unions, from principals, from State legislators, to business, to talk about how we're going to implement this at the State level.

This next year, we're working on our 1,750 branches along with a guide that we have put together, to help them have these conversations with the schools. It is so important that we get this into the schoolhouse, literally, talking with teachers and principals and other very important adults in the schools.

So we have a plan of action, and we look forward to that challenge.

Ms. WOOLSEY. Thank you, and not just to the educators, but to the legislators at the State level.

Ms. GREENBERGER. I want to make a comment also, because I think it is a critical point that you raise and I know, when everyone has talked about having worked on these issues for 20 years and more, there is a sense of hope but also a sense of realism that it is not a process that ends even with a piece of legislation.

I would urge that there be attention paid, even in these difficult times, to the kinds of resources that are going to be allocated to these efforts, that there be oversight in the way that the programs and, hopefully, the legislation, once passed, will be implemented, and that there be measures of accountability.

The data collection piece is absolutely essential, and runs through all of the different elements. But measures of accountability and reporting, both in terms of the educational agencies that are responsible for ultimately expending the funds and for the Federal Government in the way it spends those moneys and runs the programs and supervises them, and the kind of oversight function that you all provide and can provide is going to be utterly essential, as well as the appropriation of the needed resources.

I think one of the frustrations that we certainly saw with Title IX—there were many frustrations with Title IX—I guess commitment comes and goes, and once there isn't a commitment and a spotlight on the issue, our progress seems to slip. I think that's why we want to work with you to keep the spotlight on, not only with the legislation which we hope we see passed soon, but on implementing it and its very important requirements as well as its help that it will provide to people who do want to do the right thing if only they can get the help and a little bit of the urging to do it.

Chairman **Kildee**. Mrs. Mink.

Mrs. **Mink**. Thank you, Mr. Chairman. I simply want to add my compliments to the three panelists, not only for their testimony this morning, but for the impetus that all three of you have given to bringing this legislation to the Congress.

I know that with your vigorous support and with the support of our Chairman here we are going to see this bill enacted and provide the impetus for all of our efforts in gender equity. So I thank you very, very much.

Chairman **Kildee**. I want to thank you very, very much. This has been a great day, a very, very important day. We may have additional questions. I know Mrs. Unsoeld had some questions she may want to submit to you in writing. We will keep the hearing record open for 2 weeks to allow additional submissions for the record.

I have been on this committee for 17 years, and I have never done this before, but I would like to ask all of here at the rostrum, members and staff, to applaud the witnesses and all they are associated with.

[Applause.]

Mrs. **Mink**. Mr. Chairman, may I ask unanimous consent that the UC Berkeley Journal article, which was mentioned in the testimony by Marcia Greenberger, authored by, or coauthored, I think, by Ellen Vargyas, be inserted in the record of this hearing this morning?

Chairman **Kildee**. Without objection, that will be done.

[The above-mentioned material follows:]

The Legal Implications of Gender Bias in Standardized Testing

Katherine Connor†
Ellen J. Vargyas‡

TABLE OF CONTENTS

- I. INTRODUCTION 14
- II. THE FACTUAL CONTEXT 17
  - A. The Scope of the Problem 17
    - 1. Post-Secondary Admissions Tests 18
    - 2. Vocational Aptitude Tests and Interest Inventories . 21
  - B. Causes of Gender Differences in Test Scores 24
    - 1. Post-Secondary Admissions Tests 24
    - 2. Vocational Aptitude Tests and Interest Inventories . 27
  - C. Validity of the Tests 28
    - 1. Post-Secondary Admissions Tests 29
      - a. Tests Which Predict Differently by Gender 29
      - b. Unvalidated Test Uses 31
    - 2. Vocational Aptitude Tests and Interest Inventories . 32
      - a. Failure to Measure Aptitude 35
      - b. Interest Inventory Validation Problems 37
  - D. The Factual Context: Conclusions 38

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- III. THE APPLICABLE LEGAL ANALYSIS 38
  - A. Title IX 39
    - 1. The Title IX Prohibition Against Gender Discriminatory Test Uses 40
    - 2. Title IX and Its Regulations Reach Both Intentional and Disparate Impact Discrimination .. 42
    - 3. Proving Disparate Impact Discrimination in Testing Cases: The Title VII Analogy 45
      - a. *Griggs v Duke Power Co.* and Its Progeny 47
      - b. The Uniform Guidelines on Employee Selection 50
      - c. Implications of the Civil Rights Act of 1991 58
    - 4. The Particular Legal Issues Confronting Women of Color: The Intersection of Title IX and Title VI ... 63
  - B. Federal Constitutional Analysis 67
    - 1. Heightened Scrutiny 68
    - 2. Rational Relationship 70
  - C. State Constitutional Guarantees and Laws Prohibiting Gender Discrimination in Education 71
    - 1. State Constitutional Guarantees 72
      - a. Equal Rights Amendments 72
      - b. Equal Protection 74
    - 2. State Educational Equity Laws 75
  - D. Remedies for Gender-Discriminatory Uses of Educationally Related Tests 77
    - 1. Government Enforcement and Remedies 77
    - 2. Private Enforcement and Remedies 79
      - a. Injunctions Barring or Restricting the Use of Discriminatory Tests or Requiring Adoption of Valid Selection Procedures 80
      - b. Remedies Addressing the Continuing Effects of Past Discrimination 83
      - c. Voluntary Remedies 84
      - d. Monetary Damages 86
      - e. Attorneys Fees 87
- IV. CONCLUSIONS 87

I. INTRODUCTION

Standardized testing plays a major role in allocating a wide variety of benefits which our society offers in the field of education.[1] These range from college admissions[2] and scholarships,[3] including athletic scholarships,[4] to entry into vocational training programs,[5] and access to programs for gifted and talented adolescents.[6] Standardized tests are used to judge the comparative successes and competitiveness of schools ranging from the elementary level to the post-secondary[7] and to evaluate students starting before kindergarten.[8] Standardized tests have also assumed a major place in the current debate over education reform.

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[1] "The term *standardized test* means that all examinees are given identical directions, time limits, and questions." National Commission on Testing and Public Policy, *From Gatekeeper To Gateway: Transforming Testing In America* 2 (Boston College, 1990) ("*From Gatekeeper To*

Gateway"). The Commission estimates that each year elementary and secondary students take 127 million separate standardized tests, id at 15, at a direct cost of between $70 million and $107 million annually. Id at 17.

[2] The most widely used tests in this regard are the Scholastic Aptitude Test (SAT) and the Preliminary Scholastic Aptitude Test (PSAT), both published by the College Entrance Examination Board and the Educational Testing Service (ETS), and the American College Testing Program Examination (ACT), published by the American College Testing Program. Nearly 1,500 four-year colleges and universities nationwide require standardized test scores or use them as cutoff scores for admission. Phyllis Rosser, *The SAT Gender Gap: Identifying the Causes* 22 (Center for Women Policy Studies, 1989) ("*SAT Gender Gap*").

[3] SAT and/or PSAT scores are used in awarding numerous college scholarships including, for example, National Merit Scholarships, Air Force, Army and Navy Reserve Officer Training Corps (ROTC) scholarships, and scholarships awarded by the states of New York, Maryland, Massachusetts, Nevada, and Rhode Island. See notes 25-27 and accompanying text.

[4] The National Collegiate Athletic Association, for example, has linked eligibility for athletic scholarships to SAT scores through its Propositions 48 and 42. Rosser, *SAT Gender Gap* at 91 (cited in note 2).

[5] According to a national survey of secondary schools, vocational aptitude tests and interest inventories are among the most widely used standardized tests in the schools: approximately 95% of schools administered at least one test of this type to some students, and 75% administered a vocational aptitude test or interest inventory to all students. Harold B. Engen, Richard R. Lamb, and Dale J. Prediger, *Are Secondary Schools Still Using Standardized Tests?*, 60 Personnel and Guidance J 287, 288 (1982). The most popular vocational aptitude test is the Department of Defense's Armed Services Vocational Aptitude Battery (ASVAB), which 66% of the schools reported using. Id. The ASVAB is provided to the schools free of charge by the Department of Defense to over 1.3 million students annually. Dept. of Defense, *Counselor's Manual for the ASVAB Form* 14 ix (Dept. of Defense, 1989) ("*ASVAB Counselor's Manual*"). Test results are made available to the schools and students and are used by the military for recruiting. Id at 1, 2. The second most popular test is the Differential Aptitude Test (DAT), initially published by Psychological Corporation in 1947, and used in 34% of the schools. Engen, Lamb, and Prediger, 60 Personnel and Guidance J at 288. Interest inventories are also widely used, although to a lesser extent than these two vocational aptitude tests. Id.

[6] Admission to programs for academically talented junior high school students run by, among others, Johns Hopkins University, Duke University, Northwestern University, Arizona State University, several campuses of the University of California, and the University of Denver, is based on SAT scores. Gita Wilder and Patricia Lund Casserly, *Young SAT-Takers: Two Surveys*, College Board Report No 88-1 (College Entrance Examination Board, 1988) ("*Young SAT-Takers*"); Rosser, *SAT Gender Gap* at 89 (cited in note 2); Johns Hopkins University, *Catalogue for the Summer Programs for the Center for the Advancement of Academically Talented Youth* 6 (1990). In order to be admitted to the liberal arts courses of the Johns Hopkins program, a thirteen-year-old must achieve a 430 on the verbal section of the SAT. To participate in the math and science courses, he or she must also score at least 500 on the math section. Rosser, *SAT Gender Gap* at 89 (cited in note 2).

[7] Test scores are even used to evaluate school superintendents and to determine levels of state funding, with schools receiving bonuses for annual score gains. See, for example, Amy Goldstein, *Finding A New Gauge of Knowledge: Some States Are Designing Alternatives to Standardized Testing*, Wash Post, A20 (May 20, 1990).

[8] According to the National Commission on Testing and Public Policy, "prekindergarten tests are mandated in more than 16 states, widely used in seven states, and known to be used at the district level in more than 37 states. Kindergarten exit/first-grade entrance tests are used in at least 5 states and are known to exist at the district level in an additional 37." National Commission on Testing and Public Policy, *From Gatekeeper To Gateway* at 14 (cited in note 1).

In many of these tests there are substantial scoring differentials among various population groups. Differentials based on race and national origin are well documented and have been the subject of litigation[9] and scholarly legal attention.[10] However, many widely used standardized test scores — ranging from the Scholastic Aptitude Test (SAT) to the Armed Services Vocational Aptitude Battery (ASVAB) and beyond — also reflect substantial differences based on gender. Minority females suffer a double jeopardy as they often score lower than both white females and males of their own racial or ethnic group. Nonetheless, the law regarding both gender issues and combined gender and race issues is largely undeveloped. Only one lawsuit, *Sharif v New York State Education Department*,[11] has been brought to challenge any use of a standardized test on the grounds of gender bias. Legal scholars have only recently begun to devote attention to this issue and have focused on *Sharif*.[12] Virtually no attention has been focused on the particular issues raised in connection with minority girls and women.

Building on the legal principles which have been developed regarding test bias on the basis of race and/or ethnicity in employment and education, along with the analysis in *Sharif*, this article will present a legal model for analyzing claims of gender bias in standardized testing and test use. Key topics will include the impact of federal and state statutory and constitutional protections against sex discrimination as they apply to both liability and remedies. Throughout, we will pay particular attention to the framework in which to analyze the multiple discrimination suffered by minority females.

This article will first review the relevant empirical literature to establish the scope and nature of the problem. We will then turn to the legal questions at issue.

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[9] See, for example, *Larry P. v Riles*, 495 F Supp 926 (ND Cal 1979), aff'd in part and rev'd in part, 793 F2d 969 (9th Cir 1984) (challenge by Black students to the use of IQ tests to place students in classes for the educable mentally retarded); *Debra P. v Turlington*, 474 F Supp 244 (MD Fla 1979), aff'd in part and vacated in part, 644 F2d 397 (former 5th Cir 1981), on remand, 564 F Supp 177 (MD Fla 1983), aff'd, 730 F2d 1405 (11th Cir 1984) (challenge to minimum competency test with a substantial adverse impact on minority students); *United States v LULAC*, 793 F2d 636 (5th Cir 1986) (challenge by Black and Hispanic students to requirement that college students pass a skills test before taking professional education courses).

[10] See, for example, Michael A. Rebell, *Disparate Impact of Teacher Competency Testing on Minorities: Don't Blame the Test-Takers—Or the Tests*, 4 Yale L & Policy Rev 375 (1986); Richard H. Fallon, Jr., *To Each According to His Ability, From None According to His Race: The Concept of Merit in the Law of Antidiscrimination*, 60 BU L Rev 815 (1980); David M. White, *Culturally Biased Testing and Predictive Invalidity: Putting Them on the Record*, 14 Harv CR-CL L Rev 89 (1979); Robert L. Williams, *The Black Student in Higher Education: Built in Headwinds*, 19 Howard L J 41 (1975).

[11] 709 F Supp 345 (SD NY 1989). *Sharif* challenged New York State's exclusive use of SAT scores in awarding state-sponsored scholarships. In granting plaintiff's motion for a preliminary injunction, the court ruled that this practice violated Title IX of the Education Amendments of 1972 and its regulations, as well as the Fourteenth Amendment guarantee of equal protection.

[12] See Recent Cases, *Court Prohibits Awarding Scholarships On the Basis of Standardized Tests That Discriminatorily Impact Women*, 103 Harv L Rev 806 (1990); Kary L. Moss, *Standardized Tests as a Tool of Exclusion: Improper Use of the SAT in New York*, 4 Berk Women's L J 230 (1989-90).

II. The Factual Context

The factual predicate for the legal consideration of the issues of gender-in-testing includes three basic elements. The first is the scope of the problem, including both the range of tests which reflect the differentials and the extent to which the uses of these tests adversely affect females, including females of color. The second is the available information regarding the underlying explanation — or lack thereof — for the gender differentials. The third is the extent to which these tests actually measure what they purport to measure, that is, whether the test uses are valid. We will consider these matters in turn.

A. The Scope of the Problem

Gender differentials in scoring are found in a broad array of standardized tests. They are particularly prevalent in connection with two broad categories of tests: (1) the complex of admissions tests for colleges, graduate schools, and professional schools, such as the Scholastic Aptitude Test and achievement tests, which are also used for many non-admissions purposes; and (2) tests used for vocational education course selection, placement, and career counseling, such as the Armed Services Vocational Aptitude Battery (ASVAB), the Differential Aptitude Test (DAT), and career interest inventories.

Other tests, particularly those administered to nationally representative, non-self-selecting samples of students, may not reflect such differences. Some researchers are of the view that these tests demonstrate that gender differences in both verbal and math areas are declining, possibly to the point of insignificance.[13] The major exception in this analysis appears to be a persistent remaining difference at the high end of math testing, with very high-scoring boys substantially outnumbering very high-scoring girls.[14] However, the scoring patterns on some tests administered to the general population suggest that broadly based gender differentials do persist. For example, a recent review of the findings of the National Assessment of Educational Progress (NAEP) over the past twenty years identifies ongoing test performance disparities between males and females in reading and writing (in favor of females) and in mathematics, science, history, civics, and geography (in favor of males).[15]

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[13] See, for example, Carol Nagy Jacklin, *Female and Male: Issues of Gender*, 44 Am Psychologist 127, 128 (1989) (current research indicates gender differences in verbal ability do not exist, and gender differences in other intellectual abilities are also beginning to decrease); Alan Feingold, *Cognitive Gender Differences are Disappearing*, 43 Am Psychologist 95, 101 (1988) (gender differences in verbal skills are now virtually nonexistent; gender differences in math skills have significantly decreased over the past decade, although a significant gap still exists in higher math skills at the high school level); Janet Shibley Hyde and Marcia C. Linn, *Gender Differences in Verbal Ability: A Meta-Analysis*, 104 Psychological Bull 53, 53 (1988) ("[m]any regard gender differences in verbal ability to be one of the well-established findings in psychology. To reassess this belief, we located 165 studies that reported data on gender differences in verbal ability. The weighted mean . . . indicat[ed] a slight female superiority in performance. The difference is so small that we argue that gender differences in verbal ability no longer exist"); and Gita Z. Wilder and Kristin Powell, *Sex Differences in Test Performance: A Survey of the Literature*, College Board Report No 89-3, 4-9 (College Entrance Examination Board, 1989) ("*Sex Differences in Test Performance*") (gender differences in verbal skills no longer exist, but gender differences in quantitative skills persist, especially in high-end mathematics).

The inconclusive and apparently conflicting state of the literature is indicative of the underlying problem of inattention to the issue of gender bias in testing. In light of this problem, this article focuses on the tests for which the disparities are well established.

1. Post-Secondary Admissions Tests

Post-secondary admissions tests include, for example, the SAT, the ACT, achievement tests, graduate record examinations, and law, medical, and business school entrance examinations. Gender scoring differentials in these tests are well established and, where it has been conducted, research has identified gender/race differentials as well. For example, for many years females have scored approximately sixty points lower than males on the SAT, with a female deficit in both the verbal and math sections of the test.[16] Similar differences are found in the Preliminary Scholastic Aptitude Test (PSAT)[17] and the ACT[18] as well as most college entrance achievement tests and professional and graduate school entrance examinations.[19] For women of color the differences are even more pronounced. Women of color consistently score lower on both the SAT[20] and the ACT[21] than both their white female classmates and the men in their ethnic/racial group. Gender/race data is not generally available for other tests.

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[14] See, for example, Diane I. Halpern, *The Disappearance of Cognitive Gender Differences: What You See Depends on Where You Look*, 44 Am Psychologist 1156, 1156-57 (1989); Feingold, 43 Am Psychologist at 101 (cited in note 13); Jacklin, 44 Am Psychologist at 128 (cited in note 13).

[15] Ina V.S. Mullis, Eugene H. Owen, and Gary W. Phillips, *Accelerating Academic Achievement* 53 (ETS, 1990). See also Ina V.S. Mullis and Lynn B. Jenkins, *The Reading Report Card, 1971-1988: Trends From the Nation's Report Card* 17-18 (Dept. of Educ., 1990). Interestingly, Rosser notes that the NAEP is based on tests written by ETS and that the NAEP results are used to justify gender differentials in other ETS tests such as the SAT. Rosser, *SAT Gender Gap* at 73 (cited in note 2).

[16] Males have achieved higher math scores than females since the inception of the SAT. Since 1967, the math differential has ranged from a low of 43 to a high of 52 points. Until 1971, females outscored males on the verbal portion of the test, although by a much smaller factor than the difference in the math scores. Starting in 1972, females lost this modest advantage and have fallen behind males on the verbal scores by a factor of between 2 and 13 points in each ensuing year. Since 1972, the total female scoring deficit has ranged between 45 and 61 points. In 1991, it was 52 points. College Board, *College Bound Seniors: 1991 Profile of SAT and Achievement Test Takers* iii (College Entrance Examination Board, 1991) ("*College Bound Seniors*").

[17] Rosser, *SAT Gender Gap* at 25 (cited in note 2) (reporting that in 1987-88, girls averaged 41 points lower on the math section and 13 points lower on the verbal section than did boys); Nancy W. Burton, *Trends in the Verbal Scores of Women Taking the SAT in Comparison to Trends in Other Voluntary Testing Programs* 4 (1987) (paper presented at the annual meeting of the American Educational Research Association in Washington, D.C.) (on file with the National Women's Law Center).

These scoring differences directly and concretely affect the distribution of the many valuable education-related benefits which are allocated on the basis of this complex of tests, principally scholarships and admissions. For example, year-in and year-out, between sixty and sixty-six percent of the prestigious National Merit Scholarships — totalling over $23 million annually — are awarded to young men.[22] The National Merit Scholarship Program uses PSAT scores as the sole criterion for determining its semi-finalist pool from which all scholarship winners are selected.[23] Similarly, when New York State relied exclusively on SAT scores to allocate state-sponsored scholarships, over seventy percent of its elite Empire State Scholarships were awarded to young men, as were approximately sixty percent of its Regents Scholarships.[24] Many other scholarship programs also rely on these scores, at least in part, in making scholarship decisions. These include the Army, Air Force and Naval

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[18] Rosser, *SAT Gender Gap* at 26 (cited in note 2) (noting that in 1987-88, males received an average composite score of 19.9 while females received an average composite score of 18.6).

[19] Studies show that males routinely outscore females on 10 of the 14 College Board Achievement Tests (the exceptions are English Composition, German, Hebrew, and Literature), and on the quantitative sections of the Graduate Record Examination, the Medical College Admissions Test, and the Graduate Management Admissions Test. Data from the Law School Admissions Service regarding the Law School Admissions Test shows females earning slightly lower test scores although their grade point averages in school are slightly higher. Wilder and Powell, *Sex Differences in Test Performance* at 2-3 (cited in note 13). See also Patricia Wheeler and Abigail Harris, *Comparison of Male and Female Performance on the ATP Physics Test*, College Board Report No 81-4, 1 (College Entrance Examination Board, 1981) (showing that men also outperform women on the ATP Physics Test).

[20] On the 1991 SAT, Latin American men scored 60 points higher than Latin American women (math and verbal combined); Mexican American men scored 55 points higher than Mexican American women; Asian American men scored 55 points higher than Asian American women; Puerto Rican men scored 49 points higher than Puerto Rican women; Native American men scored 36 points higher than Native American women; and African American men scored 22 points higher than African American women. College Board, *1991 National Ethnic/Sex Data* (College Entrance Examination Board, 1991). College Board studies for earlier years have also found a consistent score gap between men and women within each racial/ethnic group. Leonard Ramist and Solomon Arbeiter, *Profiles, College-Bound Seniors 1985* xix-xxiii (College Entrance Examination Board, 1986).

[21] From highest scoring to lowest, the results for the 1987-88 ACT were as follows: white males, Asian American males, white females, Asian American females, Puerto Rican males, Puerto Rican females, Native American males, Mexican American males, Native American females, Mexican American females, African American males, and African American females. Rosser, *SAT Gender Gap* at 26 (cited in note 2).

[22] Id at 85.

[23] The National Merit Scholarship Program does use geographic quotas in identifying semi-finalists. Cutoff scores are determined on a state-by-state basis to assure that semi-finalists will represent all areas of the country. The result is that qualifying scores diverge depending on the applicant's residence. See, for example, College Board, *1988 PSAT/NMSQT Student Bulletin* 39 (College Entrance Examination Board, 1988).

[24] *Sharif*, 709 F Supp at 355.

Reserve Officer Training Corps (ROTC) programs,[25] state merit scholarship programs,[26] and other public and private scholarship programs.[27]

Furthermore, the gifted and talented programs for junior high school students which base admissions on SAT scores are disproportionately comprised of male students.[28] Indeed, at the first and most well-known of these programs, the Johns Hopkins Center for the Advancement of Academically Talented Youth, the math and science summer courses are approximately sixty-five percent male and only thirty-five percent female.[29] This distribution exists despite the fact that more than half of the young test-takers are female.[30]

The literature does not include analyses of the impact of these tests on the admission of women to colleges and graduate and professional schools. Although women comprise a slight majority of college students,[31] they follow different patterns of college enrollment than do men. For example, women are disproportionately enrolled as part-time students in two- and four-year undergraduate programs and graduate programs.[32] The evidence strongly suggests that students adjust their college expectations based on their SAT or ACT scores; lower-scoring females apply to less competitive colleges and universities than their grades would warrant.[33] And once they are in a college or university, women tend to enroll in areas in which women have traditionally studied. In all racial and ethnic groups, women cluster in such fields as education, foreign languages, health, home economics, letters, liberal studies, and psychology, whereas many more men than women enroll in such fields as engineering, mathematics, physical sciences, and protective services.[34] Sex-traditional patterns continue in graduate and professional programs.[35] However, as is true with many aspects of the effect of tests on women, relatively little is known about the precise influence of tests on these patterns.

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[25] See, for example, US Air Force Recruiting Service Directorate of Advertising and Promotion, *Air Force ROTC and Your Future* 5 (ROTC 88-002, 1988); and letter from Lt. Col. John C. Blake, US Army Public Affairs Dept., to Samantha Forman, National Women's Law Center (Mar 1, 1990) (on file with the National Women's Law Center).

[26] Rosser, *SAT Gender Gap* at 85-86, 107-16 (cited in note 2).

[27] Id at 85. These include, for example, Alcoa Foundation Scholarships, the International Brotherhood of Teamsters Scholarship Fund, the LULAC National Scholarship Fund, the National Achievement Scholarship Program for Outstanding Negro Students, National Presbyterian College Scholarships, the Navy Boost Program, and the Permian Honor Scholarship. The College Board, *Registration Bulletin 1989-90, SAT and Achievement Tests* 24 (College Entrance Examination Board, 1989).

[28] Rosser, *SAT Gender Gap* at 22-23 (cited in note 2).

[29] Telephone interview between John Chung, Research Coordinator of the Center for the Advancement of Academically Talented Youth, Johns Hopkins University, and Samantha Forman, National Women's Law Center (Feb 26, 1990).

[30] See Wilder and Casserly, *Young SAT-Takers* at 4 (cited in note 6).

[31] See National Center for Education Statistics, *Digest of Education Statistics 1989* 172 (US Dept. of Educ., 25th ed, 1989) ("*Digest of Education Statistics*").

[32] Id.

[33] Rosser, *SAT Gender Gap* at 22 (cited in note 2) (citing Ernest L. Boyer, *College: The Undergraduate Experience in America* (Harper & Row, 1987)). See also Wilder and Powell, *Sex Differences in Test Performance* at 31 (cited in note 13) (noting that women tend not to go into science fields because of their lower test scores).

[34] National Center for Education Statistics, *Digest of Education Statistics* at 243-44 (cited in note

2. Vocational Aptitude Tests and Interest Inventories

It is well-documented that sex segregation in vocational training also remains a deeply troubling and persistent problem. According to the final report of the National Assessment of Vocational Education, there has been little change in the last fifteen years in the amount of sex segregation in the fields of agriculture, construction, mechanics and repair, health, and occupational home economics.[36] Females are overwhelmingly concentrated in training for low-wage, non-technical, traditionally female job paths.[37]

The most severe and persistent sex segregation is experienced by low-income and academically disadvantaged students, who are disproportionately students of color.[38] For example, approximately half of all the vocational credits earned by disadvantaged women are in low-level service occupational courses or consumer and homemaking education. Further, disadvantaged females take even fewer technical and communications courses than do advantaged females, who themselves take a small number of such courses.[39] By contrast, academically disadvantaged males enjoy higher quality vocational education than do academically disadvantaged females.[40]

There are troubling connections between the gender segregation in vocational education and the use of vocational education tests. Substan-

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31) (but note that more Black women than Black men enroll in mathematics and protective services).

[35] Id at 246-51.

[36] See John G. Wirt, et al, 1 *Summary of Findings and Recommendations: National Assessment of Vocational Educational Final Report* 57 (National Assessment of Vocational Education, 1989). Data for 1980 indicate that women constitute 91% of students training as nursing assistants, 87% of those training as community health workers, and 92% of those in cosmetology and secretarial training. Men constitute 95% of those receiving training in electrical technology, 90% of those in electronics, 94% in appliance repair, 96% in auto mechanics, 96% in carpentry, 95% in welding, and 96% in small engine repair. Helen S. Farmer and Joan Seliger Sidney, *Sex Equity in Career and Vocational Education*, in Susan S. Klein, ed, *Handbook for Achieving Sex Equity Through Education* 342 (Johns Hopkins U Press, 1985).

[37] In secondary vocational education across the country, nearly 70% of female students are enrolled in programs leading to jobs which pay below-average wages. In post-secondary programs, 60% of female students are in this category. Vocational Education Task Force of the National Coalition for Women and Girls in Education, *Working Toward Equity: On Implementation of the Sex Equity Provisions of the Carl D. Perkins Vocation Act* 27 (National Coalition for Women and Girls in Education, 1988).

[38] Disadvantaged students are more than five times as likely to be Black and three times as likely to be Hispanic as academically advantaged students. Becky Jon Hayward and John G. Wirt, 5 *Handicapped and Disadvantaged Students: Access to Quality Vocational Education* 53 (National Assessment of Vocational Education, 1989).

[39] Id at 79.

[40] Id at 79-80.

tial sex-differences in scoring are reflected on the two most frequently used vocational aptitude tests in secondary schools, the ASVAB[41] and the DAT.[42] Moreover, the combined effect of gender and race results in particularly low scores for females of color on the ASVAB.[43] Although DAT results by both sex and race can be easily calculated, they are not made available by the test publisher, Psychological Corporation.[44]

Career interest inventories, which are widely used in the secondary schools for vocational education counseling and placement, also result in substantial gender-based score differentials.[45] For example, on the widely used Holland themes,[46] women obtain higher scores on Social,

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[41] The ASVAB reports seven composite scores which are categorized into two groups: academic composites and occupational composites. In the tenth grade, the scores of men and women are similar on the academic composites — academic ability, verbal, and math. However, by the twelfth grade, the average score of males is higher than that of females for all three academic composites. For the occupational composites, the mean percentile score of males is nearly twice that of females for the mechanical and crafts composite. Males also outscore females on the electronics and electrical, health, social, and technology composites. Females outscore males on only one of the four occupational composites: business and clerical. The score differences on the occupational composites are persistent across all grades. Dept. of Defense, *Technical Supplement to the Counselor's Manual* 20-22 (Dept. of Defense, 1985).

[42] The DAT is comprised of eight tests. Females score about the same as males on three of the tests — verbal reasoning, numerical ability, and abstract reasoning. Males score higher than females on the test of spacial relations and substantially higher on the test of mechanical reasoning. Females perform better on the clerical speed and accuracy, spelling, and language usage tests. George K. Bennett, Harold G. Seashore, and Alexander G. Wesman, *Differential Aptitude Tests: Administrator's Handbook* 19-27 (Psychological Corp., 1982).

[43] The results of the 1980 ASVAB administration to a nationally representative sample of youth were analyzed by both race and sex on the military composites which are, in key respects, the same as the student composites. Both the academic and the occupational scores of females of color are particularly low. On the academic composites, racial/ethnic differences predominate; the scores of white students, both male and female, are approximately twice as high as those of Hispanic and Black students. Dept. of Defense, *Profile of American Youth — 1980 Nationwide Administration of the Armed Services Vocational Aptitude Battery* 77 (Dept. of Defense, 1982).

On the occupational composites, gender differences predominate. For example, on the mechanical composite the scores of males are approximately twice as high as those of females in the same racial/ethnic groups. Males also score substantially higher than females in their racial/ethnic group on the electronics composite. Scores on the administrative or business and clerical composite are also very dependent on the student's sex, with females scoring higher than males in all racial/ethnic groups, and white females scoring particularly high. Id at 86-89.

[44] Telephone interview between Patty McDivitt, Senior Project Director, Educational Measurement, Psychological Corp., and Katherine Connor, National Women's Law Center (Apr 29, 1991).

[45] These differentials are not surprising, given the troubling history of career interest measurement. The career interests of males and females originally were measured on different, gender-specific forms; for example, one inventory measured "male interests" on a blue form and related them to "male occupations" while measuring "female interests" on a pink form and relating them to "female occupations." Although separate forms are no longer used, the two sexes continue to respond differently to questions on interest inventories. Esther E. Diamond and Carol Kehr Tittle, *Sex Equity in Testing*, in Susan S. Klein, ed, *Handbook for Achieving Sex Equity through Education*, 167, 178 (Johns Hopkins U Press, 1985).

[46] The Holland themes were first articulated by John Holland in 1959. The Self-Directed Search, developed by Holland, and other inventories, such as the Strong-Campbell Interest Inventory, the Unisex Addition of the ACT Interest Inventory, the Career Assessment Inventory, the Harrington and O'Shea System for Career Decision Making, and the United States Employment Service Interest Inventory, all draw from the theoretical concepts developed by Holland. W. Bruce Walsh and Nancy E. Betz, *Tests and Assessment* 231 (Prentice Hall, 1985).

Artistic, and Conventional themes, while men obtain higher scores on the Realistic, Investigative, and Enterprising themes.[47] As a result, the career suggestions based on these scores tend to be in careers that are traditional for each sex. Women are often directed toward education, social welfare, and office occupations, while men are commonly pointed toward careers in medicine, engineering, management, trades, or technical fields.[48] Some test publishers have responded to this problem by developing same-sex norms, that is, comparing scores within each gender and not across genders.

Although same-sex norms may result in some women receiving career suggestions in nontraditional fields, they are not responsive to the larger criticism that interest inventories perpetuate stereotyped socialization patterns and a segregated workforce because they typically compare an individual's likes and dislikes to those of persons already in the workforce.[49] Given the extreme sex and race segregation common in the workplace, this concern is significant.[50] The issue is particularly acute for women of color, who may be doubly penalized by sex and racial/ethnic biases in interest inventories.

Despite the widespread use of vocational aptitude tests and interest inventories with sex-traditional score results, relatively little data is available indicating exactly how schools use the tests and whether they contribute to sex and race segregation in vocational education. To be sure, many factors influence students' vocational program choices; family pressure and socialization, self-image, peer pressure, and educational experiences, including guidance counseling and testing, may all contribute to a student's decision to enter a traditional or nontraditional program. However, numerous studies have found evidence of sex-stereotyped counseling in schools. A consistent and troubling finding has been that students who select nontraditional programs do not report receiving positive encouragement from guidance counselors in their choice.[51]

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[47] Nancy E. Betz and Louise F. Fitzgerald, *The Career Psychology of Women* 131 (Academic Press, 1987) ("*Career Psychology of Women*").

[48] Id.

[49] Diamond and Tittle, *Sex Equity in Testing* at 180 (cited in note 45).

[50] In 1989, 60% of all professional women worked in two traditionally female occupations: teaching and nursing. Over half of all African American and Hispanic women workers were employed in clerical and service occupations. In addition, in 1988, 46% of all women workers earned less than $10,000 per year, compared to 26% of all male workers, and 65% of minimum wage earners were women. National Commission on Working Women of Wider Opportunities for Women, *Women and Work* (Wider Opportunities for Women, 1990).

[51] See, for example, Dianne Sauter, Ann Seidl, and Jacqueline Karbon, *The Effects of High School Counseling Experience and Attitudes Toward Women's Roles on Traditional or Nontraditional Career Choice*, 28 Vocational Guidance Q 241, 245 (1980) (finding that not a single woman taking nontraditional courses reported that guidance counseling influenced her choice, while 25% of women taking traditional courses reported being influenced by guidance counselors); Elizabeth H. Giese, *Expanding Occupational Choices in Michigan's Secondary Vocational Education*, in Sharon L. Harlan and Ronnie J. Steinberg, eds, *Job Training for Women:*

Moreover, the limited available evidence indicates that vocational tests and interest inventories reinforce some guidance counselors' practice of discouraging women from pursuing nontraditional programs. For example, a Michigan League of Women Voters survey of vocational education teachers, counselors, administrators, and students, strongly suggests that the tests directly contribute to that state's extreme sex segregation in vocational education programs.[52]

> [F]ully 40 percent of the teachers and counselors said students are required to provide evidence of vocational interest in a subject, such as favorable test scores or having taken prerequisites, before they are allowed to enroll. Indeed, 70 percent of students surveyed had taken a standardized test to identify their career interest, and 44 percent of the teachers and counselors said interviews were required before students could enroll in vocational education. And, 59 percent of the students pursuing non-traditional vocations felt there were admission criteria for entering a vocational education school or courses, compared to only 36 percent of traditional students who perceived such admission criteria.[53]

Thus, rather than expand vocational options, aptitude tests and inventories heighten the other systemic pressures that make a young woman's pursuit of nontraditional vocational training extremely unlikely. Further, vocational education continues to serve as the training ground for a segregated workplace.

B. Causes of Gender Differences in Test Scores

1. Post-Secondary Admissions Tests

Despite the clear presence of gender scoring differentials in these tests, there are no clear answers regarding the underlying causes. As a recent analysis prepared by two Educational Testing Service researchers observes:

> At the outset it should be noted that the conclusions about gender differences that can be reached at the current time are limited. For all of the attention that the subject has received, the data that support many of the contentions made about gender differences and their causes are inconclusive and often contradictory. The majority of studies lack generalizability, based as they are on different populations or on performance in limited domains by small samples of individuals. . . . Complicating the issue still further are the different conclusions that researchers have managed to reach even when they work from the same data.[54]

The Promise and Limits of Public Policies 316, 323 (Temple U Press, 1989) ("*Expanding Occupational Choices*") (survey found that 66% of the students enrolling in traditional vocational education programs said they were encouraged to enroll, while only 23% of the students enrolling in nontraditional courses were encouraged to enroll in those programs).

[52] Giese, *Expanding Occupational Choices* at 21-24 (cited in note 51).

[53] Id at 322.

[54] Wilder and Powell, *Sex Differences in Test Performance* at 1 (cited in note 13).

The President of the College Board has reached the same conclusion regarding his premier test: "We do not pretend to be able to explain fully the reasons why men and women perform the way they do on the SAT."[55] Similarly, the race and ethnicity differentials on the SAT are not fully explained, and virtually no research has focused on the reasons for the particularly low scores of minority women.

The available literature — which focuses almost exclusively on the SAT — examines the issue from multiple perspectives, but the bottom line is that the differences, even for this one test, are only partially understood. One recurring theme is that non-gender demographic characteristics may influence SAT test scores.[56] The female test-taking population differs demographically from the male test-taking population in a number of ways: more females than males take the test; the females are disproportionately members of racial and ethnic minority groups; and the females are disproportionately from families with lower incomes and levels of parental education.[57] The argument is made that these differences, rather than gender differences, account for the scoring differential.[58] To the extent that this argument assumes that differences attributable to race and ethnicity reflect real differences in ability, it is misguided. There is substantial evidence of racial, ethnic, and cultural biases in standardized tests.[59]

Moreover, recent studies of score differentials on the basis of gender which analyze the impact of the demographic differences strongly suggest that they do not account for the full magnitude of the observed score differentials, although they may explain some of the differences.[60] Further, the data clearly show that even when demographic factors are held constant, males outscore similarly situated females. That is, males of every racial and ethnic group for which there is data outscore comparable females;[61] males outscore females at each level of family income;[62] and males outscore females at each level of parental education.[63]

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[55] Memorandum from Donald Stewart, President of the College Board to College Board Member Chief Executive Officers, Representatives, Committees, Councils (May 1989) (on file with the National Women's Law Center). See also Mary Jo Clark and Jerilee Grandy, *Sex Differences in the Academic Performance of Scholastic Aptitude Test Takers*, College Board Report No 84-8 (College Entrance Examination Board, 1984) ("*Sex Differences in Academic Performance*").

[56] See, for example, Nancy W. Burton, Charles Lewis, and Nancy Robertson, *Sex Differences in SAT Scores*, College Board Report No 88-9 (College Entrance Examination Board, 1988).

[57] For example, in 1989, 52% of all SAT test-takers were female, as were 59% of Black, 54% of Mexican-American, and 56% of Puerto Rican test-takers. Sixty percent of test-takers from families with incomes under $10,000 were female, as were 57% from families with incomes under $20,000, and 58% of test-takers from families with neither parent having achieved a high school diploma. College Board, *College Bound Seniors* at 6-8 (cited in note 16).

[58] The College Board's studies show that, without regard to gender, Blacks, Hispanics, and Native Americans score substantially lower than whites, and that SAT scores vary directly both with family income and level of parental education. Id.

[59] The recent report of the National Commission on Testing and Public Policy documents research showing that the way test content is oriented — toward the topics and culture of the dominant group in society as opposed to minority groups — can significantly affect test scores. National Commission on Testing, *From Gatekeeper to Gateway* at 11-13 (cited in note 1). See also Orlando L. Taylor and Dorian Latham Lee, *Standardized Tests and African-American Children: Communication and Language Issues*, 38 Negro Educ Rev 67 (Apr-Jul 1987) (situational, linguistic, and communicative style, cognitive style, and interpretation biases in the use of standardized tests harm students of different cultural and linguistic backgrounds); Mary Rhodes Hoover, Robert L. Politzer, and Orlando L. Taylor, *Bias in Reading Tests for Black Language Speakers: A Sociolinguistic Perspective*, 38 Negro Educ Rev 81 (Apr-Jul 1987) (documenting specific types of language-related bias in tests and the consequences of the biases, including the tracking of students into low-level classes).

Another frequently advanced argument is that females earn lower test scores because they take fewer high-level math and science courses and otherwise pursue a less rigorous preparatory curriculum. The available literature suggests, however, that differences in academic preparation are minimal[64] and, in any event, do not fully explain the scoring differentials.[65] In fact, SAT scoring differentials comparable to those achieved by high school students are reflected in the scores of male and female junior high school students who participate in the various talent search programs. Yet their course-taking patterns are virtually identical.[66]

Other proffered explanations center on the effects of artifacts of the tests themselves, such as the context of the questions, the "speeded" or time-constrained nature of the tests, the impact of the guessing penalty, and the differential impact of particular test items on male and female and majority and minority test-takers.[67] Indeed, some have argued forthrightly that test publishers control the differentials through choices made in test construction.[68]

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[60] See, for example, Clark and Grandy, *Sex Differences in Academic Performance* at 1 (cited in note 55) (while male and female SAT-candidates differ in course preparation, grade point average, major field, career interests, and socioeconomic background, neither these differences nor evidence on differential cognitive functioning are sufficient to account for all of the observed sex differences in performance on the SAT).

[61] Rosser, *SAT Gender Gap* at 49 (cited in note 2).

[62] Id at 171-72.

[63] Id.

[64] Id at 24-25.

[65] See, for example, Clark and Grandy, *Sex Differences in Academic Performance* (cited in note 55); but see Wheeler and Harris, *Comparison of Male and Female Performance on the ATP Physics Test* at 37 (cited in note 19) (for takers of the ATP Physics Test, sex differences were not altered by the number of years of math taken, but the male/female discrepancy was significant when the number of semesters of physics taken was increased beyond two).

A study of secondary school students taking the same math classes found that males received substantially higher math test scores than females, despite the fact that females obtained higher grades in math classes. Susan Gross, *Participation and Performance of Women and Minorities in Mathematics* E-4 (Dept. of Educ. Accountability, 1988).

[66] See Wilder and Casserly, *Young SAT-Takers* at 43-44 (cited in note 6).

[67] See, for example, Cathy L.W. Wendler and Sydell T. Carlton, *An Examination of SAT Verbal Items for Differential Performance by Women and Men: An Exploratory Study* (paper presented at the 1987 annual meeting of the American Educational Research Association in Washington, D.C.) (on file with the National Women's Law Center) (data suggest that women do better on test questions that are related to each other and are related in a larger context, on items dealing with human relationships and humanities rather than the world of practical affairs, on antonyms with nouns, and on items that are more abstract, general, or intangible); Marcia C. Linn, et al, *Gender Differences in National Assessment of Educational Progress Science Items: What Does I Don't Know Really Mean?*, 24 J Res Sci Teaching 267, 267 (1987) (females more likely to use the "I don't know" option than males); and Rosser, *SAT Gender Gap* at 64-65 (cited in note 2) (females more likely to encounter problems with the speeded nature of the test, especially in math sections). See also R.J.L. Murphy, *Sex Differences in Objective Test Performance*, 52 Br J Educ Psych 213 (1982); Carol A. Dwyer, *The Role of*

In sum, the research, fairly analyzed, does not fully explain why females, and particularly minority females, achieve substantially lower scores on the SAT than do their male peers. Theories abound, but the bottom line is that the score differentials remain in large part unexplained. The literature is virtually silent on the causes underlying the score differentials in the other post-secondary admissions tests.

2. Vocational Aptitude Tests and Interest Inventories

The limited available research in this area suggests score differentials between males and females on the ASVAB and DAT reflect the different socialization patterns and experiences of the two groups.[69] Although the DAT and the ASVAB are called "aptitude" tests, they actually measure experience or learned abilities rather than aptitude. For example, on the ASVAB, "the inability of a high school girl to recognize a pipecutter or to say what a thermocouple is used for indicates nothing about the careers for which she can be trained."[70] Because aptitude tests are routinely administered early in a student's education, a school's use of tests for vocational education placement may result in the channeling of students into low-level and sex-traditional classes and careers based on the socialization that occurred in grade school or the first years of junior high school. Thus, rather than expand opportunities, the use of aptitude tests for counseling and placement may constrain them. Moreover, there is virtually no research devoted to examining the

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Tests and Their Construction in Producing Apparent Sex-Related Differences, in Michele Andrisin Wittig and Anne C. Peterson, eds, *Sex-Related Differences in Cognitive Functioning* (Academic Press, 1979) ("*Role of Tests*"); Ruth B. Ekstrom, Marlaine E. Lockheed, and Thomas F. Donlon, *Sex Differences and Sex Bias in Test Content*, 58 Educ Horizons 47 (1979); and Carol A. Dwyer, *Test Content and Sex Differences in Reading*, The Reading Teacher 753 (May 1976).

Test artifacts have also been demonstrated to negatively affect the performance of minority students. See, for example, Alicia P. Schmitt, *Language and Cultural Characteristics that Explain Differential Item Functioning for Hispanic Examinees on the Scholastic Aptitude Test*, 25 J Educ Measurement 1, 4-5 (1988) (items with content reference of special interest for Hispanics and use of cognates or words with a common root in English and Spanish help Hispanics' performance, whereas false cognates make items more difficult).

[68] See, for example, Thomas F. Donlon, Marilyn H. Hicks, and Madeline M. Wallmark, *Sex Differences in Item Responses on the Graduate Record Examination*, 4 Applied Psych Measurement 9 (1980) (arguing that test constructors have the power to substantially vary scaled score differences depending on the type of questions included); and Dwyer, *Role of Tests* at 340 (cited in note 67).

[69] Michael A. McDaniel and G. Jeffrey Worst, *Sex Norming of Aptitude Tests for Career Counseling Purposes: A Review of Issues* 8 (study prepared for the Office of the Assistant Secretary of Defense, Force Management & Personnel, 1989) (on file with the National Women's Law Center).

[70] Lee J. Cronbach, *The Armed Services Vocational Aptitude Battery — A Test Battery in Transition*, 57 Personnel & Guidance J 232, 233 (1979).

large score differentials that operate against women of color on vocational aptitude tests.

The different socialization experiences of males and females also have a significant influence on interest inventory results. Interest inventories typically require test-takers to rate themselves in a number of areas, including interests, skills, abilities, values, needs, and occupational preferences. What test-takers have been socialized to believe are appropriate interests and occupations for their sex greatly influence test results. Research reveals that occupational stereotypes — the belief that certain careers are appropriate for males and others for females — are prevalent at a young age.[71] Thus, while elementary-age boys indicate a wide variety of occupational preferences, mostly in male-dominated occupations, elementary-age girls list a much smaller number of occupations, with most choosing nursing and teaching.[72] This occupational stereotyping persists among college-age and adult populations.[73]

Interest inventories also reinforce sexual stereotyping because women tend to underrate their skills and abilities, particularly when it comes to traditionally male-oriented tasks.[74] Claims of ability are often based more upon interest and self-confidence than upon aptitudes, with females displaying low confidence in their math abilities and high interest in their ability to serve others and males displaying high confidence in their ability to improve the performance of machinery and low interest in providing service.[75]

This research begins to explain why interest inventory results magnify rather than diminish the differences between males and females. Again, there is virtually no research focusing on the score patterns of women of color on interest inventories.

C. Validity of the Tests

Given the demonstrated score differentials and the negative impact of these differentials on equal educational opportunities for girls and women, the final question is whether there is evidence that the tests are, nonetheless, being used in justifiable ways. That is, it must be determined whether the identified test uses are valid.

"Validity" as a concept in testing refers to whether a test actually accomplishes what it purports to do. Tests do not exist in a vacuum, neatly and conveniently measuring "true" abilities and aptitudes in a manner suitable for a wide range of applications. Rather they are designed — and must be justified — for specific purposes.[76] According to the Standards for Educational and Psychological Testing, validity is "[t]he degree to which a certain inference from a test is appropriate or meaningful."[77] The standards elaborate further: "[V]alidity is the most important consideration in test evaluation. The concept refers to the appropriateness, meaningfulness, and usefulness of the specific inferences made from test scores. . . . The inferences regarding specific uses of a test are validated, not the test itself."[78] As explained by the College Board:

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[71] Betz and Fitzgerald, *Career Psychology of Women* at 31-35 (cited in note 47).

[72] Id at 33.

[73] Id at 31.

[74] Id at 115.

[75] See Clifford E. Lunnenborg, *Systematic Biases in Brief Self-Ratings of Vocational Qualifications*, 20 J Vocational Behav 255, 274-75 (1982). See also Kent G. Bailey and Joel Lazar, *Accuracy of Self-Ratings of Intelligence as a Function of Sex and Level of Ability in College Students*, 129 J Genetic Psych 279 (1976) (women exhibited a greater discrepancy than did men between their self-ratings of actual and ideal college ability).

> *Validity* is . . . a concept that describes a correspondence. It examines the relation between what one would like to know, such as future performance in college, called a *criterion*, and what actually is measured, such as a predictive test score or high school grade point average (GPA) called a *predictor*.[79]

A review of the literature shows that there are two basic factual issues concerning the validity of uses of tests showing gender and gender/race differentials in scoring. First, while there are validity studies supporting certain test uses, available analyses also suggest that certain tests predict differently by sex or race. Thus, a white male's score may predict a different outcome than the same score would for a white or minority female. Second, there are no studies or analyses to support the validity of many uses to which these tests are put.

1. Post-Secondary Admissions Tests

a. Tests Which Predict Differently By Gender

The SAT presents a prime example of the first problem, a test which predicts differently by gender. The test is validated as a predictor of first year college grades;[80] however, the evidence shows that despite their lower SAT scores, females receive, overall, higher college grades than their SAT scores predict.[81] The weight of authority supports the proposition that the test predicts differently for males and females:

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[76] The concept of validity is well-established in the context of the law regarding employment testing. See discussion at notes 180-92 and accompanying text.

[77] American Psychological Association, et al, *Standards for Educational and Psychological Testing* 94 (Am Psych Assn, 1985).

[78] Id at 9.

[79] College Board, *Guide to the College Board Validity Study Service* 5 (College Entrance Examination Board, 1988) (emphasis in original).

[80] See, for example, Kenneth M. Wilson, *A Review of Research on the Prediction of Academic Performance After the Freshman Year*, College Board Report No 83-2, 1 (College Entrance Examination Board, 1983) ("*Review of Research*").

[81] See, for example, Robert G. Cameron, *The Common Yardstick: A Case for the SAT* 17 (College Entrance Examination Board, 1989) ("*Common Yardstick*"); Clark and Grandy, *Sex Differences in Academic Performance* at 19 (cited in note 55). See also Kate Ruth Sheehan, *The Relationship of Gender Bias and Standardized Tests to the Mathematics Competency of University Men and Women* (Apr 1989) (unpublished doctoral dissertation) (on file at American University library and with the National Women's Law Center). Dr. Sheehan compared

> Validity studies generally compare the admission test scores . . . of various groups with their first-year grade-point average. Such studies generally find women's test scores to be underpredictive of their performance and men's overpredictive. These studies also show women's test scores to be more strongly correlated with and more predictive of performance measures than men's.[82]

The College Board itself has acknowledged the predictive differences by gender and has recommended that they "can be eliminated by using separate prediction equations for each sex, rather than a single equation based on the total group."[83] No studies have been identified regarding whether admissions officers follow this advice, and it is accordingly not known whether or to what extent females are penalized in admissions by the differential predictiveness of the SAT. Certainly, grave problems are presented by those institutions which use across-the-board SAT cutoff scores for determining admissions or for other purposes, such as the awarding of scholarships.

Differences in the predictive value of test scores also present serious problems for minority students. For example, studies have shown that

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grades and SAT scores of incoming American University male and female freshmen as well as their subsequent academic performance. She found that entering females had significantly higher grade point averages and significantly lower SAT scores than their male peers. Id at 57. She also found that female American University students went on to receive significantly higher grades than their male classmates. Id at 72. Aware of the argument that higher female grades result from the fact that females take courses which tend to award higher grades, Dr. Sheehan went on to explore this question. She found that female students did tend to take different courses than male students but that there were no significant differences in grades among the varying fields of study. Id at 83. A senior thesis written by a Princeton University student reached a similar conclusion. It found that female members of the Princeton class of 1990 had slightly higher SAT scores on the verbal section and considerably lower math SAT scores than their male classmates. However, their average first-year grades were slightly higher than those of their male counterparts. *SAT Gender Gap* at 92 (cited in note 2).

[82] Wilder and Powell, *Sex Differences in Test Performance* at 29-30 (cited in note 13). In addition, studies show that the predictive value of the SAT differs by the type of institution and program involved, which can also have an impact on the differential prediction by gender. For example, grades are less well predicted by the SAT where the institution is large, is a community college, has a diverse curriculum, or is an urban school enrolling many part-time, working, and commuting students. Grades are better predicted for students at four-year colleges, students at private colleges, students at high-cost institutions, and students who live in college-controlled residences. Leonard L. Baird, *Predicting Predictability: The Influence of Student and Institutional Characteristics on the Production of Grades*, College Board Report No 83-5 (College Entrance Examination Board, 1983). Certain of these characteristics, particularly the part-time/full-time dichotomy, have a major impact on female students who are disproportionately represented in the part-time category. However, institutions have shown little interest in the diminished levels of predictive validity for part-time students. Jerilee Grandy and Rosalea Courtney, *A Look at Part-Time Undergraduates: Enrollment Trends, Admission Requirements, and Characteristics of Those Taking the SAT*, College Board Report No 84-4 1, 2 (College Entrance Examination Board, 1984). See generally, Thomas F. Donlon, ed, *The College Board Technical Handbook for the Scholastic Aptitude Tests and Achievement Tests* (College Entrance Examination Board, 1984).

[83] Cameron, *Common Yardstick* at 17 (cited in note 81). Indeed, the College Board's own researchers have observed that "the under-prediction of women's first-year college grades has been reported consistently in the research literature." Clark and Grandy, *Sex Differences in Academic Performance* at 21 (cited in note 55).

the predictive validity of SAT verbal and math scores of students with non-English-speaking backgrounds vary with the students' proficiency level in English. The academic performance of students with lower levels of English proficiency is likely to be underpredicted by their SAT scores, while high school rank or grade point average is a slightly more accurate predictor.[84] Studies of the academic performance of Black students have similarly revealed that test scores exaggerate differences in performance between Black and white students, and that grades and non-standardized tests are much more accurate predictors of success among Black students.[85] Again, there is little research focusing on the predictive validity of post-secondary admissions tests for minority females.

b. Unvalidated Test Uses

Of as much concern as the demonstrated gender differences in the SAT's prediction of first-year grades is the fact that there appear to have been no efforts to validate the SAT at all for numerous uses to which it is put. The Johns Hopkins Center for Academically Talented Youth, for example, points to no specific evidence to establish the SAT's validity in identifying junior high school age students with high math and/or science potential.[86] The Army ROTC cadet command is not aware of any study addressing the use of Scholastic Aptitude Test scores as a predictor of success in a military environment.[87] The basis of National Merit's reliance on PSAT and SAT scores is unclear — and thus difficult to evaluate — but insofar as the National Merit program is seeking to identify students who will excel throughout their college careers and in later life, the SAT's and PSAT's predictive values are limited at best.[88] This problem is exacerbated by National Merit's policy of imposing different cutoff scores by state. There is no evidence suggesting that the predictive value of the score is affected by a test-taker's state of residence, but the different cutoff scores substantially affect scholarship awards.

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[84] Richard P. Duran, *Testing of Linguistic Minorities* in Robert L. Linn, ed, *Educational Measurement* 573, 582-83 (Am Council on Educ/MacMillan, 1989) (reviewing the body of literature documenting less accurate prediction of Hispanic students' college grades from test scores than from high school grades or class rank).

[85] See, for example, National Commission on Testing, *From Gatekeeper to Gateway* at 13 (cited in note 1) (despite large test score differences between minorities and non-minorities, indicators of actual performance in education, such as grade point averages, do not show similarly large group differences); Timothy L. Walter, et al, *Predicting the Academic Success of College Athletes*, 58 Res Q for Exercise and Sport 273 (1987) (study of admission and graduation rates of football players with scholarships at the University of Michigan between 1974 and 1983 in relation to "Proposition 42"-like academic standards found SAT scores to be unrelated to college GPA for Blacks, and only weakly related for non-Blacks; while high school GPA correctly predicted success in 84% of cases, test scores accurately predicted success only 30% of the time).

[86] The Johns Hopkins Center for Academically Talented Youth explains its use of the SAT by making the following claims: it is an objective evaluation of reasoning ability; it is a nationally recognized test administered across the United States under controlled conditions; it is economical in terms of time and cost; and it is difficult and thus identifies the upper limits of math and verbal activity. Undated Letter from John Chung, Research Coordinator of the Center for the Advancement of Academically Talented Youth, Johns Hopkins University to National Women's Law Center (received on or about Mar 1, 1990) (on file with the National Women's Law Center). The letter also states the opinion of the Johns Hopkins Office of the Study of Mathematically Precocious Youth that while the SAT "may be an underpredictor for females on the whole, it does not necessarily take away from those that have been identified as academically talented students." Id. Julian Stanley and Camilla Benbow, who pioneered the effort to identify gifted adolescents through high SAT scores, argue that the predictive value of the SAT for this population is demonstrated by the subsequent high achievement of the youngsters who have been identified. Julian C. Stanley and Camilla Persson Benbow, *Youths Who Reason Exceptionally Well Mathematically* in Robert J. Sternberg and Janet E. Davidson, eds, *Conceptions of Giftedness* 377 (Cambridge U Press, 1986). Even Stanley and Benbow implicitly acknowledge the highly circular nature of this reasoning by noting that "some students may be missed by this criterion." Id at 362.

2. Vocational Aptitude Tests and Interest Inventories

Vocational aptitude batteries appear to be used in several closely related ways in the secondary schools: to select students for vocational programs, to assist students in selecting vocational education programs, and to counsel students regarding possible vocations.[89] A showing of validity for any of these uses would require evidence linking test performance with performance in specific vocational education programs and occupations.[90]

The validity studies cited by the publishers of the aptitude tests, however, provide little, if any, evidence of such linkage in the secondary school context. Indeed, even the evidence supporting the ASVAB's use as a classification mechanism for the military — the purpose for which it was designed — is weak.[91] Moreover, the evidence regarding the ASVAB's validity for military uses shows substantial variances in the predictive value of the test for different training programs and occupations,[92] as well as variances based on the gender and race of the test-taker. For example, a study of the validity of particular composites for predicting performance in Air Force training programs shows variations depending on the individual's race and sex.[93] For all of the positions analyzed except one, the ASVAB composites were most predictive either for white males or white females. For many of the occupations, the composites had little predictive value at all for any group except white males. The correlations were particularly weak for Black females.[94]

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[87] Letter from Lt. Col. John C. Blake to Samantha Forman (cited in note 25).

[88] See, for example, Wilson, *Review of Research* at 36 (cited in note 80) (concluding that the little evidence available regarding the predictive value of SAT scores for post-freshman grades suggests a gradual decline in predictive validity over time). See also Leonard L. Baird, *The Role of Academic Ability in High-Level Accomplishment and General Success*, College Board Report No 82-6 21, 24 (College Entrance Examination Board, 1982).

[89] Diamond and Tittle, *Sex Equity in Testing* at 174 (cited in note 45).

[90] Id.

[91] See Kevin Murphy, *Armed Services Vocational Aptitude Battery* in Daniel J. Keyser and Richard C. Sweetland, eds, 3 *Test Critiques* 61, 68 (Test Corp of America, 1984) ("*ASVAB*"). The minimal correlation between ASVAB test scores and success in military occupations was demonstrated when a calibration error in 1976 resulted in the enlistment of more than 300,000 recruits who normally would have been rejected because of their low test scores. Several studies of the recruits admitted by mistake showed that many performed as well or better than those who received passing scores and that the performance of the remainder was only minimally below that of those not admitted by mistake. National Commission on Testing, *From Gatekeeper to Gateway* at 9-10 (cited in note 1). See also Bernard R. Gifford, *The Political Economy of Testing and Opportunity Allocation*, 59 J of Negro Educ 58, 64-65 (1990).

[92] John A. Hartigan and Alexandra K. Wigdor, eds, *Fairness in Employment Testing: Validity Generalization, Minority Issues, and the General Aptitude Test Battery* 94 (National Research Council, 1989) ("*Fairness in Employment Testing*").

Although it has been used in secondary schools since 1966, there is virtually no validity evidence supporting the use of the ASVAB in civilian student testing programs.[95] Only three studies, all unpublished and all using an earlier version of the ASVAB, are referenced in the counselor's manual.[96] A Freedom of Information Act request revealed that these reports were never published and cannot now be located by the Department of Defense.[97] The request did produce three unpublished reports not cited in the Counselor's Manual.[98] These studies, however, are preliminary and appear to be ongoing. In fact, the Department of Defense has conceded that there is no direct validity evidence for the student testing program.[99]

In the absence of such evidence, the Department of Defense relies on the theory of "validity generalization"[100] to justify the test.[101] Validity generalization theory generalizes validity evidence from one particular test or test use to another test or test use. This theory is controversial and is by no means an adequate substitute for direct validity evidence or, at least, a rigorous analysis demonstrating the comparability of skills, abilities, and/or interests predicted by the respective test or test use.[102] Yet despite the inadequacy of generalization theory, the Department of Defense invokes the theory in two ways. First, it generalizes the validity evidence accumulated in support of the General Aptitude Test Battery (GATB) to validate the ASVAB.[103] Secondly, it generalizes the validity evidence accumulated in support of the ASVAB's use to classify military recruits in order to support the civilian uses of the ASVAB.[104]

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[93] See Dept. of Defense, *ASVAB Test Manual* 52 (Dept. of Defense, 1984).

[94] Id. In fact, Black females were not even analyzed in two of the six job categories because they were too few in number. Id.

[95] Dept. of Defense, *ASVAB Counselor's Manual* at ix (cited in note 5).

[96] Dept. of Defense, *Technical Supplement to the Counselor's Manual* at 47 (cited in note 41) (citing F.R. Berger, R.M. Berger, and W.B. Gupta, *The Validity of ASVAB-5 in Predicting Vocational/Technical Course Success in Secondary Schools and Post-Secondary Schools* (1977) (unpublished research report)); N. Kettner and L.L. Streeter, *Predictive Validation of the ASVAB* (1979) (unpublished research report); and N.C. Larson and D.L. Arenson, *Validity of ASVAB-5 Against Civilian Job Criteria* (1979) (unpublished research report).

[97] Letter from W.S. Sellman, Director, Accession Policy, Office of the Assistant Secretary of Defense, to Katherine Connor, National Women's Law Center (Sep 6, 1990) (on file with the National Women's Law Center).

[98] The reports are: John G. Claudy and Lauri Steel, *Armed Services Vocational Aptitude Battery (ASVAB): Validation for Civilian Occupations Using National Longitudinal Survey of Youth (NLSY) Data* (Air Force Human Resources Laboratory, 1990); Terry R. Armstrong, et al, *Armed Services Vocational Aptitude Battery: Validation for Civilian Occupations* (Air Force Human Resources Laboratory, 1988); and Harald E. Jensen and Lonnie D. Valentine, Jr., *Validation of ASVAB-2 Against Civilian Vocational-Technical High School Criteria* (Air Force Human Resources Laboratory, 1976) (on file with the National Women's Law Center).

[99] John Welsh, *Review of the National Women's Law Center Report on the Legal Implications of Gender Bias in Standardized Tests* 2 (Nov 27, 1991) (unpublished review on file with the National Women's Law Center) ("*Welsh Review*"). Welsh writes that the Department of Defense "has attempted to obtain such evidence since 1985, but restraints imposed by the Office of Management and Budget have prohibited the direct collection of civilian validity information." According to Welsh, validity studies are now under way and results will be available within the next two years. Currently, there is no way to evaluate these studies (which presumably are those referenced in response to the Freedom of Information Act request discussed in note 97 and accompanying text) because they are not yet completed.

[100] Dept. of Defense, *Technical Supplement to the Counselor's Manual* at 48-49 (cited in note 41).

[101] *Welsh Review* at 2-3 (cited in note 99).

Validity evidence offered in support of the ASVAB's use as a military classification device is weak.[105] Similarly, validity evidence supporting even the intended uses of the GATB is modest and must be viewed in light of the test's well-established disparate impact on minorities.[106] Studies of the GATB, which has been used throughout the United States Employment Service for job referral, have revealed that because minorities score much lower than whites on the test, selection errors — rejection of applicants who could perform the job successfully — "weigh more heavily on minority workers than on majority workers."[107]

To avoid this adverse impact, the Department of Labor instituted a policy for certain adaptations of the test under which "minority applicants were referred to employers in proportion to their relative numbers or ratio to nonminorities in the local office applicant pool."[108] Elsewhere, the same principle was incorporated through the method of within-group scoring.[109] Also known as "race-norming," this policy became quite controversial. In reaction to the controversy, and because of a decline in GATB validities in recent studies as well as lower validities for Blacks, on July 24, 1990, the Department of Labor put forth a proposal to suspend use of the GATB and to conduct a two-year study to address the underlying problems of limited validity and adverse impact.[110]

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[102] For example, see generally Richard T. Seymour, *Why Plaintiffs' Counsel Challenge Tests, and How They Can Successfully Challenge the Theory of "Validity Generalization,"* 33 J Vocational Behav 331, 350-63 (1988). See also *EEOC v Atlas Paper Box Co.*, 868 F2d 1487, 1490 (6th Cir 1989) ("[t]he validity of the generalization theory utilized by Atlas . . . is not appropriate. Linkage or similarity of jobs in dispute in this case must be shown by such on-site investigation to justify application of such a theory").

[103] *Welsh Review* at 2-3 (cited in note 99); Dept. of Defense, *Technical Supplement to the Counselor's Manual* at 49 (cited in note 41).

[104] *Welsh Review* at 2-3 (cited in note 99); Dept. of Defense, *Technical Supplement to Counselor's Manual* at 48-49 (cited in note 41).

[105] See note 91 and accompanying text.

[106] Hartigan and Wigdor, *Fairness in Employment Testing* at 7, 127, 188 (cited in note 92). See also, Proposed Revised Policy on Use of Validity Generalization — General Aptitude Test Battery for Selection and Referral in Employment and Training Programs, Employment and Training Administration, Department of Labor, 55 Fed Reg 30162 (1990); Policy on Selection and Referral Techniques for Employment and Training Programs, 56 Fed Reg 65746 (1991).

[107] Hartigan and Wigdor, *Fairness in Employment Testing* at 7 (cited in note 92).

[108] 55 Fed Reg 30162 (cited in note 106).

[109] Id.

The Department of Labor also proposed to discontinue its use of other test batteries which are derived from and/or base their validity on the GATB.[111] According to the Department of Defense, the civilian use of the ASVAB falls into this category.[112] Any Department of Labor-related use of the ASVAB would have thus been terminated under the proposed policy.

This proposal was never implemented. Instead, on December 13, 1991, the Department of Labor announced that, in response to a provision in the Civil Rights Act of 1991,[113] it would end the practice of within-group scoring.[114] At the same time, it announced that it would institute a multi-year study of the GATB to improve its performance but would continue to permit the use of the test.[115] The 1991 announcement confirmed that studies have demonstrated both that the relationship between GATB scores and job performance is "modest" and that there has been a drop in validities in recent years.[116] Nonetheless, the Department noted many comments from a variety of test-users opposing its earlier proposal to discontinue use of the GATB pending a study and concluded that it would not prohibit use of the GATB while the research is being conducted. At the same time, however, in an implicit acknowledgement of the GATB's disparate impact, it cautioned test-users that they are responsible for complying with applicable laws, including civil rights laws.[117] While there are substantial concerns regarding the continued use of the GATB pending the outcome of the study, the Department of Labor remains on record as recognizing that the GATB is a flawed test.

a. Failure to Measure Aptitude

Even if there were strong validity evidence in support of the military use of the ASVAB or the use of the GATB generally, the fundamental problem presented by the use of the ASVAB in the student testing program remains: the tests fail to distinguish among different aptitudes in different areas and hence cannot be helpful in counseling students about different career possibilities. All of the academic and occupational composites of the ASVAB essentially measure the same thing — general academic ability.[118] The average correlation coefficient[119] between each of the composites and the academic ability composite is .95; each composite expresses almost exactly the same information about a test-taker. Thus, a student who does well on the academic ability composite will also score high on all of the occupational composites (mechanical and crafts, business and clerical, electronics and electrical, and health, social, and technology). Conversely, a student with a low academic ability composite score is also likely to score low on all of the occupational composites. This flaw is fatal. As one reviewer noted, "[t]he acid test of a test battery is its ability to provide information about several distinct abilities. The ASVAB fails this test."[120] In order for counselors to rely on test scores for vocational counseling, the test must be capable of distinguishing between different aptitudes in different subject areas.[121] Because the ASVAB only measures general academic ability, it is, by definition, not competent to perform this function.

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[110] Id.

[111] Id at 30163.

[112] *Welsh Review* at 2-3 (cited in note 99).

[113] Civil Rights Act of 1991, Pub L No 102-160, 105 Stat 1071, 1075 (1991), to be codified at 42 USC § 2000e-2.

[114] 56 Fed Reg 65746 (cited in note 106).

[115] Id.

[116] Id at 65747.

[117] Id.

The DAT has similar problems. Test reviewers have repeatedly noted that, like the ASVAB, the DAT lacks the very ability to differentiate between different aptitudes that would support its valid use for counseling purposes.[122] Yet the DAT score report explicitly steers students toward and away from particular occupations and classes based on scores on different subtests and a career planning questionnaire completed by the student.[123] Moreover, test reviewers have found little evidence of the

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[118] Murphy, *ASVAB* at 65 (cited in note 91).

[119] A correlation coefficient denotes a relationship between measures. David Nachmias and Chava Nachmias, *Research Methods in the Social Sciences* 142 (St. Martin's Press, 2d ed 1981). A positive number denotes a positive relationship, with 1.0 indicating a perfect predictive relationship between the measures and a negative number indicating that one measure does not predict the other. See discussion at notes 219-21 and accompanying text.

[120] Murphy, *ASVAB* at 68 (cited in note 91).

[121] Anne Anastasi, *Psychological Testing* 378-79 (MacMillan, 5th ed 1982). It appears that the Department of Defense has also concluded that the ASVAB has little ability to discriminate between different aptitudes in different areas. Beginning in July of 1992 the ASVAB workbook will explicitly correlate civilian occupations with ASVAB scores on academic composites only; the occupational composites will not be correlated with occupations. Interview with Anita R. Lancaster, Assistant Director, Office of the Assistant Secretary of Defense and Katherine Connor, National Women's Law Center (Apr 4, 1990); see also *Welsh Review* (cited in note 99).

[122] See, for example, Daryl Sanders, *Review of Differential Aptitude Tests*, in James V. Mitchell, Jr., ed, 1 *Ninth Mental Measurements Yearbook* 505, 506 (U of Neb, 1985); Anastasi, *Psychological Testing* at 378 (cited in note 121); and Maria Pennock-Roman, *Differential Aptitude Tests*, in Daniel J. Keyser and Richard C. Sweetland, eds, 3 *Test Critiques* 226, 240-41 (Test Corp of America, 1984).

[123] For example, if a student indicates an interest in the "engineering and applied science" occupation group and it correlates with her other interests and educational plans, but not with her score on the mechanical reasoning subtest, her score report will state:

> People who do well in this field [of] work usually like the school subjects and activities you like. Also, the kind of education they have matches your plans for school. However, their scores on the aptitude tests that are related to this field are often higher than yours. *In view of this, you may wish to reconsider this occupational choice and look into other fields of work that would be more suited to your particular abilities.*

Donald E. Seiper, *Differential Aptitude Test Counselor's Manual* 16-17 (Psychological Corp, 1982) (emphasis added).

DAT's validity for predicting job success.[124] As for success in school, the validity studies do show correlations between the academic subtests and grades in academic high school courses.[125] However, vocational education classes are lumped into the "miscellaneous courses" category and the publishers are unable to draw "firm conclusions" about the predictive validity of the DAT for these courses.[126]

Perhaps most troubling is the fact that the predictive validities of both the DAT and the ASVAB have never even been explored for students of color in the secondary school setting. The significant score differences by gender and race on the ASVAB[127] make it all the more important to carefully analyze predictive validity for this population.

b. Interest Inventory Validation Problems

Interest inventories also present significant validity problems. Foremost is that the link between interests and abilities has never been established. Thus, for example, although a person may have interests similar to those of a lawyer, this does not necessarily mean that he or she has the ability to succeed in this profession.[128] Conversely, a person who does not have interests similar to lawyers currently in the profession may still have the ability to be a successful lawyer. Despite this lack of a demonstrated correlation between interests and abilities, interest inventories are used heavily in the guidance counseling process.

In addition, a fundamental issue for women, and particularly women of color, is whether the inventories simply perpetuate a segregated status quo in vocational education and the workplace, or whether they actually expand opportunities. Because women tend to underrate their abilities in nontraditional tasks and occupations, interest inventories can close doors to nontraditional occupations rather than open them. Moreover, since many inventories are based on the interest profiles of persons presently in the workforce, the tests may perpetuate existing gender and racial segregation by suggesting that interests similar to those of men are necessary for success in male-dominated occupations. Based on the concern about the negative effects of interest inventories, different models for career exploration have been suggested. Some researchers maintain that an interest test can and should suggest an expanded range of options and not simply reflect socialized experiences and the patterns of a segregated workforce.[129]

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[124] See, for example, Sanders, *Review of Differential Aptitude Tests* at 506 (cited in note 122); Anastasi, *Psychological Testing* at 378 (cited in note 121); and Ronald K. Hambleton, *Review of Differential Aptitude Tests*, in Mitchell, 1 *Ninth Mental Measurement Yearbook* 505 (U of Neb, 1985).

[125] George K. Bennett, Harold G. Seashore, and Alexander G. Wesman, *Differential Aptitude Tests Technical Supplement* 34 (Psychological Corp, 1984).

[126] Id at 34-35.

[127] DAT scores for minority students are not made available by the test publisher. Telephone interview with Patty McDivitt (cited in note 44).

[128] Walsh and Betz, *Tests and Assessment* at 230 (cited in note 46).

These issues are particularly acute for minority women. Although the National Institute of Education Guidelines recommended that inventories be normed for different racial/ethnic groups and that separate interpretive materials should be developed if there are differences in the way that groups respond,[130] this generally has not been done, despite the fact that preliminary investigation has revealed the likelihood of a mismatch between the interest structures of minority women and those of the norming groups used by the test publishers.[131] Thus, minority women may experience both gender and racial bias on existing interest inventories and further restriction of educational and employment opportunities.

Despite the wide-ranging use of vocational education tests and interest inventories for counseling students about careers and placing them in particular vocational programs, there has been little attempt to validate the tests with success in specific occupations or vocational education programs.

D. The Factual Context: Conclusions

In sum, a review of the empirical literature establishes a clear, factual predicate for the consideration of the legal framework in which to understand gender-in-testing issues. First, a wide range of standardized tests reflect gender differentials in scoring which work to the concrete disadvantage of females in general and females of color in particular. Second, the causes of these differentials are not fully understood and are not explained by the literature. Indeed, there is barely any analysis at all of the reasons underlying the particularly low scores of girls and women of color. Third, serious validity concerns are raised in connection with many uses of these tests. These range from the uses of tests which predict differently by gender and/or a combination of gender and race to test uses for which no meaningful validity evidence exists at all.

III. THE APPLICABLE LEGAL ANALYSIS

Federal prohibitions against gender discrimination in education are principally based in Title IX of the Education Amendments of 1972 and the Equal Protection Clause of the Fourteenth Amendment to the

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[129] Diamond and Tittle, *Sex Equity in Testing* at 181 (cited in note 45).

[130] See Carol Tittle and Donald Zytowski, *Sex Fair Interest Measurement: Research and Implications* (National Institute of Education, 1978).

[131] Janice Porter Gump and L. Wendell Rivers, *A Consideration of Race in Efforts to End Sex Bias*, in Esther E. Diamond, ed, *Issues of Sex Bias and Sex Fairness in Career Interest Measurement* 123, 124 (Dept of Health, Education and Welfare, 1975).

United States Constitution. In addition, state equal rights amendments, other state constitutional provisions, and federal and state statutes and regulations address these issues. Both on its own and by incorporating closely related principles which have been developed to limit race and gender discriminatory testing in employment, this jurisprudence provides the framework for substantially limiting, if not eliminating altogether, the gender discriminatory educational use of standardized tests. This section will explore the nature and applicability of these legal theories, including their remedial schemes.

A. Title IX

Title IX of the Education Amendments of 1972 (hereinafter "Title IX") prohibits sex discrimination in any educational program or activity receiving federal financial assistance.[132] It provides: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . ."[133] Title IX's broad prohibition against sex discrimination in education clearly encompasses many gender-discriminatory test uses. We will first review Title IX's relevant substantive prohibitions and then turn to the key question of its applicability both to intentional discrimination and to discrimination which results from policies or practices which are neutral on their face but have a "disparate impact" based on gender. Further, because much discrimination in testing falls into this second category, we will consider the nature of the disparate impact analysis to be applied. Finally, we will discuss the potential of a combined Title IX/

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[132] 20 USC §§ 1681-87 (1988), as amended by the Civil Rights Restoration Act of 1987, Pub L No 100-259, 102 Stat 28 (1988), codified at 20 USC § 1687. Following the passage of the Civil Rights Restoration Act in 1988, it is clear that Title IX applies to all education programs and activities conducted by recipients of federal financial assistance. See 20 USC § 1681 note, 1687, 1687 note, 1688, 1688 note. This coverage results regardless of whether the federal funds support the particular program or activity at issue. Title IX's prohibitions thus apply to all public institutions at the elementary, secondary, and post-secondary level, including all private post-secondary institutions whose students receive any federal financial aid and all private institutions which receive any other form of federal financial assistance. In addition, many other institutions in the "education business" receive federal funds and are also covered by Title IX insofar as their education programs and activities are concerned. Examples of such institutions include the Educational Testing Service and the College Board, both of which receive substantial federal financial support. See, for example, letter from Renee Chilton, Grants and Contracts Service, US Dept. of Educ., to Ellen J. Vargyas, National Women's Law Center, and supporting US Dept. of Educ. reports in response to Ms. Vargyas' Freedom of Information Act request on this subject (May 18, 1989) (letter and reports on file with the National Women's Law Center).

[133] 20 USC § 1681(a). Based on an extensive hearing record, Congress intended to enact "a strong and comprehensive measure [that would] provide women with solid legal protection from the persistent, pernicious discrimination which is serving to perpetuate second-class citizenship for American women." 118 Cong Rec 5804 (1972) (Remarks of Sen Birch Bayh, D-Ind). See also *Discrimination Against Women: Hearings on HR 106098 before the Special Subcommittee on Education of the House Committee on Education and Labor on HR 16098*, 91st Cong, 2d Sess 1-2 (1970).

Title VI analysis to address the multiple nature of the discriminations suffered by women of color.

1. The Title IX Prohibition Against Gender Discriminatory Test Uses

While Title IX does not directly address testing and test use in its statutory language, its regulations[134] explicitly prohibit the discriminatory use of tests in admissions,[135] employment,[136] and counseling and appraisal.[137] Regarding admissions, recipients may not:

> (2) . . . administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.[138]

This section mirrors the regulation prohibiting the use of discriminatory tests in the employment practices of recipients.[139] The counseling regulation is similarly broad.[140] As originally proposed, the regulation only prohibited the use of different counseling materials on the basis of sex, or materials which permitted differential treatment on the basis of sex.[141] However, the final regulation goes beyond facial differential treatment in materials and requires that schools reexamine their counseling practices whenever there is disproportionate enrollment by sex in a particular class or program. It provides that:

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[134] The agencies charged with enforcing Title IX have broad discretion in crafting the applicable regulatory framework. *North Haven Bd. of Educ. v Bell*, 456 US 512, 514 (1982).

[135] Title IX applies to the overall admissions practices of the following educational institutions: institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education. It does not cover the general admissions practices of elementary and secondary schools, private undergraduate institutions, or public institutions of undergraduate education which have traditionally and continually from their establishment had a policy of admitting only students of one sex. 20 USC § 1681(a)(1) and (5). But see 34 CFR § 106.35 (1991) (providing that a local educational agency shall not deny admissions on the basis of sex to any school or educational unit it operates "unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services and facilities comparable to each course, service and facility offered in or through such schools"). Further, even where the general admissions exception may apply, the institution is covered by Title IX with regard to all of its other education programs or activities, including access to those programs or activities. Thus, if a secondary school uses a test for admissions to a particular course and the test has a disproportionate impact on the basis of gender, Title IX's prohibitions are fully implicated.

[136] 34 CFR § 106.52.

[137] 34 CFR § 106.36.

[138] 34 CFR § 106.21. This regulation applies only to admissions practices which are covered by Title IX.

[139] 34 CFR § 106.52. The comments accompanying the final version of 34 CFR § 106.21(2), which was slightly changed from the originally proposed version, explain that it is intended to "conform the provisions of the regulations dealing with students and those dealing with employees." *Sex Discrimination Regulations, Hearings Before the Subcommittee on Postsecondary Education of the Committee on Education and Labor*, 94th Cong, 1st Sess 14 (1975).

[140] 34 CFR § 106.36.

[141] Access to Education Program or Activity, 39 Fed Reg 22235, § 86.34(c) (1974).

> Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.[142]

Thus, whenever there is a gender-disproportionate enrollment in classes, recipients have an affirmative obligation to ensure that discrimination is not occurring in any aspect of the counseling process.[143]

Other regulations, while they do not expressly address testing, prohibit discrimination in areas where test results are often used. For example, recipients are prohibited from discriminating on the basis of sex in the provision of financial aid or from assisting, in any fashion, any individual or organization which provides financial aid to any of the recipient's students in a manner which discriminates on the basis of sex.[144] While testing is not specifically referenced, the discriminatory use of tests in awarding scholarships, such as the use of the SAT in awarding National Merit Scholarships, is surely encompassed. Moreover, without limitation to financial aid programs, recipients are prohibited from "providing significant assistance to any agency, organization or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees."[145] This principle bars, for example, recipients from assisting private programs for gifted and talented adolescents or private vocational education programs which use test scores in a gender-discriminatory fashion.

In addition to the regulations, the Department of Education also has promulgated "Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs" ("Vocational Education Guidelines").[146] These Vocational Education Guidelines adopt the standard incorporated in 34 CFR § 106.36(c) (1990), providing that where a vocational education program disproportionately enrolls members of one gender, recipients must assure themselves that this phenomenon is not the result of unlawful discrimination in counseling activities.[147] Furthermore, the Vocational Education Guidelines require that when a test used in connection with a vocational education program has a disproportionate impact on the basis of gender, a recipient must show that the test use is "validated as essential to participation in a given program" and that alternative criteria with a lesser discriminatory impact are unavailable.[148]

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[142] 34 CFR § 106.36(c).

[143] See also 34 CFR § 106.36(b) (recipients must ensure that counseling and appraisal materials, including tests, do not discriminate on the basis of sex).

[144] 34 CFR § 106.37(a).

[145] 34 CFR § 106.31(b)(6). In *Iron Arrow Honor Soc. v Heckler*, 702 F2d 549, 555 (5th Cir 1983), the former Fifth Circuit upheld this section of the regulations both on its face and as applied to the relationship between the University of Miami and the Iron Arrow Honor Society which had an exclusively male membership. See *Iron Arrow Honor Soc. v Hufstedler*, 499 F Supp 496 (SD Fla 1980), aff'd 652 F2d 445 (5th Cir 1981), vacated and remanded for further consideration in light of *North Haven Board of Educ. v Bell*, 456 US 512 (1982), modified sub nom *Iron Arrow Honor Soc. v Heckler*, 702 F2d 549 (5th Cir 1983), dismissed as moot, 464 US 67 (1983).

[146] 34 CFR Part 100, App B (1991). Guidelines do not have the full authority of regulations but, nonetheless, are entitled to deference. *Griggs v Duke Power Co.*, 401 US 424, 433-34 (1971).

In sum, Title IX applies across the board to prohibit the gender-discriminatory use of tests in federally assisted education except in limited, enumerated circumstances in the area of admissions. This prohibition includes virtually all test uses undertaken in connection with vocational and scholarship programs, assessment and placement decisions, covered admissions practices, or any other purpose.[149]

2. Title IX and Its Regulations Reach Both Intentional and Disparate Impact Discrimination

The great weight of authority supports the conclusion that Title IX prohibits both intentional and disparate impact discrimination. Disparate impact discrimination refers to practices which, although neutral on their face and not intentionally discriminatory, are discriminatory in effect. The availability of disparate impact analysis under Title IX is particularly important in light of the fact that testing discrimination typically results from the discriminatory application of facially neutral practices rather than acts of intentional discrimination.[150]

Because Title IX was expressly modeled on Title VI of the Civil Rights Act of 1964,[151] the analysis of Title IX's scope is initially based in Title VI law.[152] When Title IX was enacted in 1972, Title VI had explicitly been interpreted by federal agencies to reach disparate impact discrimination. Model regulations had been drafted, "and every Cabinet Department and about 40 federal agencies had adopted standards in which Title VI was interpreted to bar programs with a discriminatory impact."[153] Indeed, the House of Representatives rejected a proposed amendment in 1966 that would have limited Title VI's coverage to intentional discrimination.[154]

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[147] 34 CFR Part 100, App B(V)(B).

[148] 34 CFR, Part 100, App B(IV)(K). The Vocational Education Guidelines set out examples of practices which must meet this test. These include "past academic performance, record or disciplinary infractions, counselors' approval, teachers' recommendations, interest inventories, high school diplomas and standardized tests, such as the Test of Adult Basic Education (TABE)."

[149] See 34 CFR § 106.31 (broad prohibition against gender discrimination in education).

[150] An exception is the separate norming of test scores by gender. See discussion at notes 356-59 and accompanying text. However, because Title IX explicitly permits "a recipient [to] take affirmative action to overcome the effects of conditions which resulted in limited participation [in an activity] by persons of a particular sex . . .", 34 CFR § 106.3(b), separate norming may be permissible under the law if it comports with this purpose. See also 34 CFR § 106.3(a) (Assistant Secretary may order remedial action upon finding of discrimination).

[151] Civil Rights Act of 1964, 42 USC § 2000d (1988). Title VI prohibits discrimination on the basis of race and national origin by recipients of federal financial assistance.

[152] *Cannon v U of Chicago*, 441 US 677, 695-96 (1979) ("[t]he drafters of Title IX explicitly assumed that [Title IX] would be interpreted and applied as Title VI had been during the preceding eight years").

In *Guardians Association v Civil Service Commission*,[155] a Title VI disparate impact challenge to examinations administered by the New York City Police Department, the United States Supreme Court confirmed that although Title VI itself reaches only intentional discrimination, Title VI regulations properly reach disparate impact discrimination. Therefore, the Court held that in actions brought under Title VI with reference to its regulations, a showing of intentional discrimination is not required.[156] The Supreme Court reaffirmed this holding in *Alexander v Choate*,[157] a case brought under § 504 of the Rehabilitation Act.[158] In that case, a unanimous Court reiterated the framework for Title VI claims that resulted from the multiple opinions in *Guardians*:

> First, the [*Guardians*] Court held that Title VI itself directly reached only instances of intentional discrimination. Second, the Court held that actions having an unjustifiable disparate impact on minorities could be redressed through agency regulations designed to implement the purposes of Title VI. In essence, then, we held that Title VI had delegated to the agencies in the first instance the complex determination of what sorts of disparate impacts upon minorities constituted sufficiently significant social problems, and were readily enough remediable, to warrant altering the practices of the federal grantees that had produced those impacts.[159]

At least six circuits have explicitly recognized that a cause of action premised on the Title VI regulations does not require proof of discriminatory intent.[160] Further, Title IX decisions reaching this question post-*Guardians* have confirmed that Title IX regulations properly reach disparate impact discrimination as well.[161] Most recently, in *Sharif v New York State Education Department*, the plaintiffs asserted that New York State's use of the SAT to determine eligibility for state merit scholarships had an unlawful disparate effect on females.[162] The district court granted plaintiffs' motion for a preliminary injunction, holding that the Title IX implementing regulations in general prohibit practices with a discriminatory effect on one sex, and that plaintiffs need not prove intentional discrimination.[163]

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[153] *Alexander v Choate*, 469 US 287, 294 n 11 (1985).

[154] Id.

[155] 463 US 582 (1983).

[156] Five separate opinions were issued in *Guardians*. Justices Stevens, Brennan, and Blackmun concluded that although a violation of the statute requires proof of discriminatory intent, the regulations promulgated under the statute incorporate an effects standard. 463 US at 608 n 1. Justices White and Marshall took the view that no Title VI claim, either under the statute or under the regulations, requires a showing of intent. Id. Chief Justice Burger and Justices Powell, Rehnquist, and O'Connor reasoned that intentional discrimination is an element of any valid Title VI claim. Id.

[157] 469 US 287 (1985).

[158] 29 USC § 794 (1988). Section 504 of the Rehabilitation Act was also expressly modeled in part after Title VI. *Alexander*, 469 US at 293 n 7.

[159] 469 US at 293-94 (footnotes omitted). Based on an analogy to Title VI, the *Alexander* court assumed, "without deciding[,] that Section 504 reaches at least some conduct that has an unjustifiable disparate impact upon the handicapped." Id at 299.

[160] See Grace W. Tsuang, *Assuring Equal Access of Asian Americans to Highly Selective Universities*, 98 Yale L J 659, 668 n 66 (1989) (citing *Larry P. v Riles*, 793 F2d 969, 981-82 (9th Cir 1984)); *Latinos Unidos de Chelsea v Secretary of Housing*, 799 F2d 774, 785 n 20 (1st Cir 1986); *Castaneda v Pickard*, 781 F2d 456, 465 n 11 (5th Cir 1986); *Craft v Bd. of Trustees of U of Ill*, 793 F2d 140, 142 (7th Cir); *Mabry v State Bd. of Community Colleges*, 813 F2d 311, 316 n 6 (10th Cir 1987); *Ga. State Conference of Branches of NAACP v State of Ga.*, 775 F2d 1403, 1417-18 (11th Cir 1985).

Thus, while Title IX's regulations may properly reach disparate impact discrimination, there is strong support for the argument that Title IX itself reaches such discrimination as well. The conclusion in *Guardians* that Title VI's statutory prohibition is limited to intentional discrimination was based on the finding in *University of California Regents v Bakke* that Title VI's prohibition is coextensive with that in the Fourteenth Amendment.[164] The Fourteenth Amendment, of course, requires a showing of intent to establish a violation.[165] However, there has never been a similar finding that Title IX incorporates constitutional standards and, in fact, nothing in Title IX's history suggests that it was designed as a statutory reflection of the Fourteenth Amendment's prohibition against sex discrimination. Indeed, when Title IX was enacted in 1972, the Supreme Court had just begun the lengthy process of dismantling the rational-basis analysis of sex discrimination cases and developing a heightened standard of review under equal protection for cases of gender discrimination.[166] Given the absence of any express legislative history to the effect that Congress was seeking to reflect the contemporaneous and highly ambiguous constitutional standard for gender discrimination in its enactment of Title IX, such a conclusion is unlikely.

Moreover, the recent passage of the Civil Rights Restoration Act, over a presidential veto,[167] along with the enactment of the Civil Rights Remedies Equalization Act,[168] further illustrates Congress' intent that Title IX should be broadly interpreted. Such an interpretation would include its application to disparate impact discrimination.

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[161] Prior to *Guardians*, this conclusion was also reached by the Ninth Circuit in *De La Cruz v Tormey*, 582 F2d 45 (9th Cir 1978); but see *Cannon v U of Chicago*, 648 F2d 1104, 1109 (7th Cir 1981) (Title IX and its regulations do not reach disparate impact discrimination).

[162] 709 F Supp 345, 348 (SD NY 1989).

[163] Id at 360-61. See also *Haffer v Temple U*, 678 F Supp 517, 539-40 (ED Pa 1987) (plaintiffs did not have to show intent to succeed on their claims of sex discrimination in Temple University's intercollegiate athletic program under Title IX and the implementing regulations); and *Fulani v League of Women Voters Educ. Fund*, 684 F Supp 1185, 1193 (SD NY 1988) (assuming that a disparate impact claim is appropriate in a suit brought to enforce regulations adopted pursuant to Title IX, without actually deciding that such was the case). Compare *Pfeiffer v Marion Center Area School Dist.*, 917 F2d 779, 788 (3d Cir 1990) (observing that "[n]either the Supreme Court nor this court has decided specifically whether intent is a necessary element of a Title IX claim").

[164] 438 US 265 (1978). In the course of concluding that Title VI does not prohibit a recipient of federal aid from taking race into account in its preferential admissions program, Justice Powell, announcing the decision of the Court, id at 287, and Justice Brennan, writing for four Justices, id at 328, stated that Title VI's prohibition against racial discrimination is coextensive with that of the Equal Protection Clause of the Fourteenth Amendment.

[165] *Washington v Davis*, 426 US 229, 239-40 (1976); *Personnel Adm'r of Mass. v Feeney*, 442 US 256, 272 (1979).

[166] See notes 289-302 and accompanying text for a discussion of the development of the heightened scrutiny standard in sex discrimination cases.

But regardless of whether Title IX itself reaches disparate impact discrimination, *Guardians* and *Alexander* clearly teach that its regulations may. As is apparent from the preceding discussion, Title IX's regulations, by their plain language, do reach disparate impact cases.[169] Moreover, courts have broadly construed Title IX's regulations in line with their intent to eliminate discrimination. They have assured that disparate impact analysis is available under the Title IX regulatory scheme generally and is not limited to a cramped and narrow construction of the regulatory language.[170]

3. Proving Disparate Impact Discrimination in Testing Cases: The Title VII Analogy

Since the Title IX regulations, and most likely Title IX itself, prohibit disparate impact discrimination without requiring proof of intent, the next issue is the standard for proving disparate impact discrimination under Title IX. Title VI disparate impact analysis, including that developed in Title VI testing cases, has principally relied on the law under Title VII, the section of the Civil Rights Act of 1964 prohibiting employment discrimination.[171] As discussed above, Title IX was modeled on Title VI and is typically interpreted and applied in a similar fashion.[172] Moreover, the Title IX disparate impact testing case, *Sharif*, specifically incorporated a Title VII analysis.[173]

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[167] The Restoration Act reversed the Supreme Court's 1984 decision in *Grove City College v Bell*, 465 US 555 (1984), restoring the effectiveness of four major civil rights statutes prohibiting discrimination by recipients of federal funds: Title IX, Title VI, Section 504, and the Age Discrimination Act. Specifically regarding educational institutions, the statute provides that where federal aid is extended anywhere within an institution, the entire institution is covered, and not just the specific program receiving assistance. Civil Rights Restoration Act of 1987, Pub L 100-259, 102 Stat 28 (1988), codified at 20 USC § 1687. In passing this legislation, Congress stressed that Title IX and the other three civil rights statutes are to be given the broadest interpretation in order to eliminate discrimination from institutions receiving federal financial assistance. Civil Rights Restoration Act of 1987, S Rep No 64, 100th Cong, 1st Sess 5 (1987).

[168] The Civil Rights Remedies Equalization Act Amendment, Pub L 99-506, 100 Stat 1845 (1986), codified at 42 USC § 2000d-7 (Supp 1990), reversed the Supreme Court's decision in *Atascadero State Hospital v Scanlon*, 473 US 234 (1985). In *Atascadero*, the Court held that the Eleventh Amendment bars suits against states and state agencies in federal court for monetary relief under Section 504 of the Rehabilitation Act. Congress responded by promptly passing the Civil Rights Remedies Equalization Act Amendment, which expressly abrogates the Eleventh Amendment immunity of the states for violations of any federal statute prohibiting discrimination by recipients of federal financial assistance, including Title IX.

[169] For example, the admissions regulation, 34 CFR § 106.21(b)(2), and the employment regulation, 34 CFR § 106.52, address tests which have a "disproportionately *adverse effect* on persons on the basis of sex" (emphasis added). See also 34 CFR § 106.36(b) and (c) (counseling appraisals and materials); 34 CFR Part 100, App B(IV)(K) (Guidelines for Eliminating Discrimination in Vocational Education).

[170] See, for example, *Sharif*, 709 F Supp at 361 (Title IX regulations generally reach disparate impact discrimination); and *Haffer v Temple U*, 678 F Supp 517, 539-40 (ED Pa 1987) (disparate impact analysis available in claim of discriminatory award of athletic scholarships although applicable regulation does not use explicit disparate impact language).

At least one court has questioned the wisdom of applying the more limited Title VII framework for employment cases to the educational testing arena, suggesting that stronger prohibitions against discrimination would be appropriate. In *Larry P. v Riles*, the district court judge followed the Title VII standards of proof in evaluating a Title VI claim, but expressed the following reservations:

> If tests can predict that a person is going to be a poor employee, the employer can legitimately deny that person a job, but if tests suggest that a young child is probably going to be a poor student, the school cannot on that basis alone deny that child the opportunity to improve and develop the academic skills necessary to success in our society.[174]

In affirming this part of the decision in *Larry P.*, the Ninth Circuit again noted that "the employment context is quite different from the educational situation."[175] Thus, although Title VII testing law is certainly relevant to interpretation of Title VI and Title IX, it may not always be controlling because of the very different purposes underlying the use of tests in the workplace and in the school. These different purposes may suggest, in particular circumstances, a broader interpretation of Title IX than is offered by Title VII in order to prevent students from being improperly excluded from valuable educational opportunities. Indeed, in certain respects the Title IX regulatory scheme does provide more protections than are available under Title VII.[176]

Nonetheless, because Title VII provides guidance for Title IX disparate impact analysis, we will turn to an examination of Title VII disparate impact law and its implications for discriminatory test uses in education. There is, however, a threshold issue which must first be addressed regarding the nature of the appropriate Title VII analogy to be drawn. This issue arises from the fact that the standard for establishing disparate impact discrimination under Title VII, initially established in 1971 in the unanimous Supreme Court decision in *Griggs v Duke Power Co.*,[177] has gone through two fundamental alterations since that time.

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[171] 42 USC § 2000e (1981). See, for example, *Latinos Unidos de Chelsea v Secretary of Housing*, 799 F2d at 785-86; *Castaneda v Pickard*, 781 F2d at 465-66; *Branches of NAACP v State of Ga.*, 775 F2d at 1417; and *Larry P.*, 793 F2d at 982, 982 n 9.

[172] *Cannon*, 441 US at 694-96.

[173] *Sharif*, 709 F Supp at 361. See also *Mabry*, 813 F2d at 316 n 6, 317 (Title VII is the most appropriate analogue for defining the substantive standards for a Title IX claim of sex discrimination in employment); and *Lipsett v U of Puerto Rico*, 864 F2d 881, 896-97 (1st Cir 1988) (Title VII standard for proving sexual harassment applies to Title IX claim).

[174] 495 F Supp 926, 969 (ND Cal 1979), aff'd in part, rev'd in part, 793 F2d 969 (9th Cir 1984).

[175] 793 F2d at 980.

[176] See notes 236-41 and accompanying text; see also note 248.

[177] 401 US 424 (1971).

Initially, the standard was made significantly more difficult to meet in the Supreme Court's 1989 decision in *Wards Cove Packing Co. v Atonio,*[178] which effectively reversed *Griggs*. Then, after a two-and-one-half year legislative battle, Congress rejected the decision in *Wards Cove* and codified a *Griggs*-based disparate impact cause of action as part of the Civil Rights Act of 1991.[179] However, as is inevitable with a new statute, particularly one reflecting as complicated and contentious a legislative history as that of the Civil Rights Act of 1991, questions remain regarding its interpretation. These questions, which must now be resolved through the courts, include the precise state of the Title VII disparate impact standard.

While Title IX analysis has always reflected certain Title VII principles, the relevant Title IX interpretations, including both case law and administrative regulations, predate both the Civil Rights Act of 1991 and *Wards Cove* and are based squarely on *Griggs*. However, an unanswered question remains: namely, (1) whether Title IX disparate impact analysis is linked to disparate impact analysis under Title VII regardless of how Title VII law develops; or (2) whether Title IX disparate impact analysis has been based on Title VII because Title IX incorporates the doctrine of *Griggs* and should accordingly continue to follow the *Griggs* standard? Because, as shown below, the Title IX regulations closely track the *Griggs* formulation, deviating only to place additional burdens on the test-user, the better view is that Title IX incorporates, at a minimum, the *Griggs* standard for establishing disparate impact discrimination, regardless of subsequent changes in Title VII jurisprudence. Accordingly, the following discussion will focus on the *Griggs* line of cases and its application to gender discrimination in educational testing. However, because the Civil Rights Act of 1991 is so closed linked to the matters at hand — and because it confirms the view that Congress intended all along for courts to use the *Griggs* analysis in reviewing disparate impact discrimination — we will also address its implications for Title IX. The discussion will be informed throughout by an examination of the Title VI cases, as well as of *Sharif*, which have applied these principles to the discriminatory use of tests in education.

a. *Griggs v Duke Power Co.* and Its Progeny

In 1971, the year before Title IX was enacted, the Supreme Court held unanimously in *Griggs v Duke Power Co.*, that Title VII prohibits not only intentional discrimination but also facially neutral practices which are discriminatory in impact.[180] At issue in *Griggs* was the employer's requirement that, in order to be hired, job applicants must either have a high school diploma or a passing score on one of two aptitude tests. The policy disproportionately excluded Blacks from employment and the employer produced no evidence that either the diploma requirement or the tests were related to the jobs at issue. In holding that Title VII prohibited these employment practices, the Court explained that Title VII "proscribes not only overt discrimination but also practices that are fair in form but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited."[181] Regarding the specific context of testing, the Court continued:

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[178] 490 US 642 (1989).

[179] Civil Rights Act of 1991, Pub L No 102-160, 105 Stat 1071 (1991), to be codified at 42 USC § 2000e-2.

> Nothing in the Act precludes the use of testing or measurement procedures; obviously they are useful. What Congress has forbidden is giving these devices and mechanisms controlling force unless they are demonstrably a reasonable measure of job performance. . . . What Congress has commanded is that any tests used must measure the person for the job and not the person in the abstract.[182]

The standard for challenging the disparate impact of facially neutral practices was refined through a series of subsequent Supreme Court and lower court decisions, most of which, like *Griggs*, involved testing. Moreover, as discussed below, this standard has been the reference point for the analysis of disparate impact discrimination in education law.

In the *Griggs* line of cases, a plaintiff was first required to establish that the racial, ethnic, religious, or gender makeup of the pool of successful test-takers differed significantly from the pool of otherwise qualified applicants as a result of an employment practice or practices.[183] The same requirements for making out a prima facie case apply under Title

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[180] 401 US at 431.

[181] Id.

[182] Id at 436. Title VII specifically endorses the use of a "professionally developed ability test" in employment, "provided that such test, its administration or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex or national origin." 42 USC § 2000e-2(h). This section was not part of the original version of Title VII but was added during floor debate to assuage the fears of certain senators that Title VII would prohibit all employment testing and force employers to hire unqualified workers. *Griggs* at 434-36. See also Barbara Schlei and Paul Grossman, *Employment Discrimination Law* 82 (BNA 2d ed 1983).

[183] See, for example, *Albemarle Paper Co. v Moody*, 422 US 405, 425 (1975). See also Schlei and Grossman, *Employment Discrimination Law* at 1326, 1326 n 126 (cited in note 182). As the Supreme Court has recently reaffirmed, "the 'proper comparison [is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified . . . population in the relevant labor market.' " *Wards Cove*, 490 US 642, 650 (1989) quoting *Hazelwood School Dist. v US*, 433 US 299, 308 (1977). While the differences must be significant, courts have not imposed a rigid test of statistical significance. In *Watson v Ft. Worth Bank & Trust*, 487 US 977, 995-96 n 3 (1988), Justice O'Connor observed, "Courts appear generally to have judged the 'significance' or 'substantiality' of numerical disparities on a case-by-case basis. [Citations omitted.] At least at this stage of the law's development, we believe that such a case-by-case approach properly reflects our recognition that statistics 'come in infinite variety and . . . their

IX.[184]

The burden then shifted to the employer to show that the employment practice or practices could be justified by "business necessity."[185] Courts have "repeatedly" described this requirement as a "heavy burden" for employers.[186] In education cases, the closely related concept of "educational necessity" has developed to describe the burden on the party defending the practice at issue.[187]

In both employment and education testing analysis, "necessity" has been interpreted to incorporate the concept of validity. As the Supreme Court explained in *Albemarle*, "discriminatory tests are impermissible unless shown, by professionally accepted methods, to be 'predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs' [in question]."[188] The Title IX regulations explicitly adopt a validity standard.[189]

Even if an employer successfully met the burden of demonstrating business necessity, a plaintiff could still prevail by showing that other employment practices that did not have a discriminatory effect would also serve the employer's legitimate interest in securing employees who could perform the job.[190] This concept of the less discriminatory alternative has also been applied in the judicial analysis of discriminatory test uses in education[191] as well as in the Title IX regulatory scheme.[192]

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usefulness depends on all of the surrounding facts and circumstances.' " Id (quoting *Teamsters v US*, 431 US 324, 340 (1977)).

[184] See *Sharif*, 709 F Supp at 361 (court held that "[u]nder this scheme, plaintiffs first must show that a facially neutral practice has a disproportionate effect"). See also, for example, 34 CFR § 106.21(b)(2); 34 CFR § 106.36(b).

[185] *Griggs*, 401 US at 431.

[186] Schlei and Grossman, *Employment Discrimination Law* at 112, 112 n 96 (cited in note 182).

[187] As the Ninth Circuit held in *Larry P.*, which challenged the use of IQ tests to place students in classes for the educable mentally retarded, once disparate impact on the basis of race was established, "[t]he burden . . . shifted to the defendants to demonstrate that the IQ tests which resulted in the disproportionate placement of black children were required by educational necessity." 793 F2d at 983. See also *Sharif*, 709 F Supp at 361 ("[i]n educational testing cases, instead of requiring defendants to demonstrate a 'business necessity,' courts have required defendants to show an 'educational necessity' ") (citing *Branches of NAACP v State of Ga.*, 775 F2d 1403 (11th Cir 1985) and *Bd. of Educ. v Harris*, 444 US 130 (1979)).

[188] *Albemarle*, 422 US at 431. See also *Guardians*, 630 F2d at 88 ("[t]he real issue in this case, therefore, is whether the defendants have rebutted the plaintiffs' *prima facie* case by proving that its test was job-related: that the test accurately selected applicants who would be better police officers"); and *Sharif*, 709 F Supp at 361.

[189] For example, the admissions regulations prohibit the use of admissions tests which have an adverse effect on the basis of sex unless "the use of such test[s] . . . is shown to predict validly success in the education program or activity in question. . . ." 34 CFR § 106.21(b)(2). See also 34 CFR § 106.52 (employment). The Guidelines for Eliminating Discrimination in Vocational Education place an even heavier burden on test users. Once disparate impact has been shown, the recipient must "demonstrate that such criteria have been validated as *essential* to participation in a given program." 34 CFR Part 100, App B(IV)(K) (emphasis added).

[190] "Such a showing would be evidence that the employer was using its tests merely as 'pretext' for discrimination." *Albemarle*, 422 US at 425 (citing *McDonnell Douglas Corp. v Green*, 411 US 792, 804-05 (1973)). See also *Conn. v Teal*, 457 US 440, 446-47 (1982); and *Dothard v Rawlinson*, 433 US 321, 329 (1977).

[191] See, for example, *Branches of NAACP v State of Ga.*, 775 F2d 1403, 1417 (11th Cir 1985) (holding under Title VI that plaintiff "may ultimately prevail by proffering an equally effective

b. The Uniform Guidelines on Employee Selection

While the foregoing analysis describes the general framework for analyzing disparate impact discrimination under both Title IX and Title VII, a specific and detailed jurisprudence regarding testing discrimination in employment has also developed under Title VII. This law is based principally on the Uniform Guidelines on Employee Selection Procedures ("Uniform Guidelines"),[193] promulgated by the Equal Employment Opportunity Commission, and the cases which have interpreted the Uniform Guidelines principles.[194] The Uniform Guidelines are a particularly important resource for the analysis of discrimination in educational testing because while the Title IX case law and regulatory scheme incorporate the same principles, the agencies charged with enforcing Title IX have not developed an education-specific counterpart to the Uniform Guidelines.[195]

The Uniform Guidelines define adverse impact as "[a] substantially different rate of selection . . . which works to the disadvantage of members of a race, sex, or ethnic group."[196] Generally, the proper comparison is between those who are ultimately selected and the pool of those who were qualified for selection for determining whether there has been a disparate impact,[197] although in certain circumstances the pool is drawn

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alternative practice which results in less racial disproportionality"); and *Larry P.*, 495 F Supp at 973 (holding that under Title VI, "[e]ven if defendants had discharged their burden . . . plaintiffs would still be entitled to prevail if they could show that alternative devices for placement exist and would serve defendants' legitimate interests without the same discriminatory effect").

[192] See, for example, 34 CFR § 106.36(b) and (c) (counseling regulation which implies that less discriminatory alternatives must be instituted when discrimination is found to arise from the use of counseling materials); 34 CFR § 106.21 (b)(2) (admissions); and 34 CFR § 106.52(b) (employment). See notes 236-41 and accompanying text for a discussion of the relationship between the Title IX and Title VII formulations of this construct.

[193] 29 CFR Part 1607 (1978).

[194] Although the Uniform Guidelines do not independently have the force of law, they are entitled to deference by reviewing courts. In *Griggs*, the Court articulated a "great deference" standard, 401 US at 433-34; accord *United States v Chicago*, 549 F2d 415, 430 (7th Cir 1977) (guidelines should be complied with unless some cogent reason exists for non-compliance). The current state of the law, which has retreated from the full strength of the *Griggs* articulation, is well summarized by the Second Circuit's observation in *Guardians*, 630 F2d 79 ("[t]he [Supreme] Court appears to have applied the Guidelines only to the extent that they are useful, in the particular setting of the case under consideration, for advancing the basic purposes of Title VII. . . . Thus, the Guidelines should always be considered, but they should not be regarded as conclusive unless reason and statutory interpretation support their conclusions" (citations omitted). Id at 91).

[195] Courts addressing claims of discriminatory test uses in education have been very aware of this lack of guidance. For example, in 1979, the district court in *Larry P.* observed that "[t]o date . . . there are no cases applying validation criteria to tests used for EMR [Educable Mentally Retarded] placement," and expressed concern about "[t]he problem of [the] lack of authority." 495 F Supp at 969. Similarly, in *Debra P.*, in evaluating whether a high school competency exam was discriminatory, the Eleventh Circuit observed that "[t]he experts conceded that there are no accepted educational standards for determining whether a test is instructionally valid." 730 F2d 1405, 1412 (11th Cir 1984).

[196] 29 CFR § 1607.16(B) (1991).

[197] See, for example, *Richardson v Lamar County Bd. of Educ.*, 729 F Supp 806, 815 (MD Ala 1989), aff'd *Richardson v Ala. State Bd. of Educ.*, 935 F2d 1240 (11th Cir 1991).

more broadly.[198]

The Uniform Guidelines incorporate what is known as the "four-fifths" rule, under which a selection rate for any protected group of less than four-fifths of the rate of the group with the highest selection rate is regarded as evidence of adverse impact.[199] However, they do not preclude the use of other statistical analyses.[200] Moreover, where there are smaller differences in the selection rate than at the four-fifths rate and/or where small numbers are involved,[201] the Uniform Guidelines consider practical as well as statistical significance and permit looking to the use of the selection device over periods of time and in analogous circumstances to establish the requisite impact.[202]

In education cases, the adverse impact of the test use may be both readily apparent and statistically significant. For example, in *Sharif* the plaintiffs established disparate impact by showing that New York State's exclusive reliance on SAT scores to award state-sponsored scholarships resulted in the award of seventy-two percent of Empire State Scholarships and fifty-seven percent of Regents Scholarships to males although they were only forty-seven percent of the scholarship competitors.[203] These represented 15.8 standard deviations from the mean and 31.7 standard deviations from the mean, respectively.[204] The court found that the plaintiffs proved their case: "through persuasive statistical evidence and credible expert testimony that the composition of scholarship winners tilted decidedly toward males and could not have occurred by a random distribution."[205]

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[198] For example, the Title IX counseling regulations take a broader view of the appropriate pool. Under 34 CFR § 106.36(b) and (c), impact is established where there is a substantially disproportionate number of members of one sex in a particular course of study, classification, or class. In a similar vein, in an investigation of discriminatory selection practices at the Chicago Board of Education's Washburne Trade School, the Office for Civil Rights determined that the relevant pool for comparison was females who were "potentially available for training," rather than those who had actually applied to the school or taken a particular test. Letter from OCR Regional Director Kenneth A. Mines to Dr. Manford Byrd, Jr., Case No 05-85-1008 at 2 (Mar 28, 1986).

[199] 29 CFR § 1607.4(D). But see *Clady v County of Los Angeles*, 770 F2d 1421, 1428 (9th Cir 1985) (noting that the "four-fifths" rule has been criticized by courts and commentators).

[200] See *Rivera v Wichita Falls*, 665 F2d 531, 536, 536 n 7 (5th Cir 1982) ("[a] difference of more than two or three standard deviations is generally considered to raise a compelling inference of discrimination" (citing *Castaneda v Partida*, 430 US 482, 496-97 n 17 (1977))).

[201] "[S]mall sample size may, of course, detract from the value of [statistical] evidence. . . ." *Teamsters v United States*, 431 US 324, 339-40 n 20 (1977), and thus impede a showing of disparate impact. As the court in *United States v Lansdowne Swim Club*, 713 F Supp 785 (ED Pa 1989), explained, "[t]he danger posed by small samples is that they may produce short-term results that would not hold over the long run, and thus erroneously may be attributed to discriminatory practices rather than to chance." Id at 809. However, "small numbers are not *per se* useless, especially if the disparity shown is egregious." *Valentino v United States Postal Service*, 674 F2d 56, 72 (DC Cir 1982). Accord *Rivera v Wichita Falls*, 665 F2d at 536-37 n 7 (sample size of thirty-five will not defeat a showing of disparate impact where disparity is great).

[202] 29 CFR § 1607.4(D).

[203] *Sharif*, 709 F Supp at 355.

[204] Id.

[205] Id at 362.

Similar analyses can be conducted to compare, for example, percentages of females in the following categories: those who take the PSAT/NMSQT, qualify for semi-finalist status in the National Merit Scholarship competition and are awarded scholarships,[206] those who as seventh graders take the SAT and qualify for admission to the various enrichment programs for gifted and talented adolescents,[207] and those who take the ASVAB or DAT and are admitted to various vocational education courses or programs.

Where statistical significance is difficult to establish because of small sample size, the Uniform Guidelines' recognition of practical significance and mechanisms to expand sample size become relevant. An example of where this alternate analysis may be useful is the consideration of adverse impact in certain vocational education test uses, especially for claims brought by minority women, where relatively small numbers of test-takers and allocated benefits are implicated in any one setting or at any one time. Under the Uniform Guidelines, results from different test administrations may be aggregated to determine whether discriminatory impact is present. Similarly, these provisions may come into play in the analysis of whether disparate impact results from tests used for admissions to small programs or scholarship awards made by relatively small scholarship programs.

Once impact has been established, the analysis turns to whether the test use can be defended under the necessity standard. There are two basic and interrelated questions to be answered. The first is typically framed in terms of test validity: Does the test do what it purports to do? As the district court observed in a case challenging the use of a high school competency test which had a racially adverse impact, "[p]ut simply, the task assigned to this Court by the Court of Appeals was to find out if Florida is teaching what it is testing."[208] The second question is whether the test addresses critical or important skills and abilities necessary for the performance of the job or success in the educational pursuit.

Although formal validation studies are not an absolute requirement under Title VII,[209] the Uniform Guidelines and the case law note the importance of establishing validity in accordance with established practice.[210] There are three basic strategies for establishing validity: content validation, criterion-related validation, and construct validation.[211] To the extent that validity studies have been undertaken, criterion-related validity, which analyzes a test's ability to predict accurately important elements of job performance,[212] has been the principal strategy used in connection with education-related testing. For example, the College Board has used criterion analysis to validate the SAT for college admissions purposes.[213] Content validity, which focuses on whether the content of the test is representative of important aspects of the job,[214] and construct validity, which attempts to measure abstract traits (such as judgment) which are deemed important to performance on the job,[215] will likely have a more limited application to education-related testing.

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[206] Recent studies show that although females represent slightly more than half of the test takers, they only receive between 33% and 40% of National Merit Scholarships. Figures are not publicly available regarding the gender breakdown of semi-finalists although it is believed to resemble the gender breakdown of scholarship winners. See discussion at notes 22-23 and accompanying text.

[207] As discussed earlier, the pool of students taking the test is evenly distributed by gender although the math programs enroll twice as many boys as girls. See discussion at notes 28-30 and accompanying text.

[208] *Debra P.*, 730 F2d at 1409 (citing with approval *Debra P.*, 564 F Supp at 180). See also *Larry P.*, 495 F Supp at 968 (" '[v]alidation' is the determination of whether the placement tests or other evaluation materials are suited for the purposes for which they are used").

[209] *Watson v Ft. Worth Bank & Trust*, 487 US 977, 997 (1988). However, the examples given in *Watson* in support of the proposition that formal validation studies are not required as a matter of law are limited in scope. They provide little guidance to an educational test user who

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seeks to defend a test use in the absence of a validity study. For example, *N.Y. Transit Authority v Beazer*, 440 US 568 (1979), involved the blanket exclusion of methadone users from employment by the New York City Transit Authority. The case did not involve an abilities test and the decision turned on broad policy considerations. Id at 590-93. Furthermore, in *Washington v Davis*, 426 US 229, 235, 250 (1976), the narrow question presented was whether a written entrance examination for a police recruit training course was required to be validated as a predictor of both recruit training success and future job-performance. The Court held that validation as a predictor of recruit training success was sufficient to uphold the use of the test. The Court did not address the issue of whether validity studies were required in general. Moreover, *Washington v Davis* was a Fifth Amendment rather than a Title VII case. Id at 233. In any event, where the Uniform Guidelines are not followed the test user has a heavier burden in establishing validity and defending against a claim of disparate impact. *United States v Chicago*, 573 F2d at 427. See also *Craig v County of Los Angeles*, 626 F2d 659, 665 (9th Cir 1980) (stating that "noncompliance with the EEOC guidelines diminishes the probative value of the defendant's validation study. But it is not necessarily fatal").

[210] 29 CFR § 1607.3(A) (1991). In addition to the Uniform Guidelines themselves, another important source of established practice which is referenced in the Uniform Guidelines, 29 CFR § 1607.5(C) (1991), is the American Psychological Association's *Standards for Educational and Psychological Tests* (American Psychological Association, 1974), superseded by American Psychological Association, et al, *Standards for Educational and Psychological Testing* (American Psychological Association, 1985).

[211] 29 CFR § 1607.5(B) ("[n]ew strategies for showing the validity of selection procedures will be evaluated as the become accepted by the psychological profession"). See also *Washington v Davis*, 426 US at 247, n 13.

[212] 29 CFR § 1607.5(B) (1991).

[213] See discussion at notes 77-80 and accompanying text. The Uniform Guidelines caution that "[c]riterion measures consisting of paper and pencil tests will be closely reviewed for job relevance." 29 CFR § 1607.14(B)(3). See *Craig v County of Los Angeles*, 626 F2d 659. The same principle applies to the validation of education tests. They must be relevant to the purpose for which they are being used.

[214] A classic example of a content-validated test is a typing test for the position of typist. Content validity is generally not suited to the educational context where, by definition, the candidate is being assessed regarding his or her ability to *develop* skills and not whether he or she already possesses them. See 29 CFR § 1607.14(C)(1) (1991). An exception may be the validation of achievement tests used for placement purposes. See, for example, *Larry P.*, 495 F Supp 926, 970 n 84.

[215] 29 CFR § 1607.14(D). Construct validity is also less likely to be used because it "is both an extensive and arduous effort involving a series of research studies, which include criterion related validity studies and which may include content validity studies." 29 CFR § 1607.14(D)(1). Construct validity did come into play in determining the validity of IQ tests for placing Black children in classes for the educable mentally retarded, *Larry P.*, 495 F Supp at 970 n 84, although the court also observed that the "definitions [of the various validity strategies] are sometimes confused . . . and the important concern is the practical one of establishing the relationship. . . ." Id.

Regardless of the validation strategy, any study must start with a careful analysis of the purpose for which the test is being used.[216] In the employment context, such an analysis must determine "critical or important job duties, work behaviors or work outcomes"[217] with a particular emphasis in avoiding bias both in the selection of the measures and their applications.[218] Similarly, in education testing, test-users should identify "critical or important" skills and abilities which the test is designed to elicit. This requirement applies whether the test is being used to select candidates for an undergraduate baccalaureate program or an enrichment program for gifted adolescents, to award scholarships, or to counsel students in their choice of a vocational education program.

The next step is to determine the relationship between performance on the test and performance in the skills and abilities which are being measured. This relationship is often measured in terms of a correlation coefficient. A positive number denotes a positive relationship, with 1.0 indicating a perfect predictive relationship between test scores and job success, while a negative number demonstrates that the better one does on the test, the more unsuited one is to the job in question.[219] In Title VII case law, "courts have commonly not accepted as valid a test having a correlation coefficient of under .30."[220] Validity can also be measured in terms of statistical significance. Under the Uniform Guidelines, a selection procedure is generally considered valid when "the relationship between performance on the [test] and performance on the criterion measure is statistically significant at the 0.05 level of significance, which means that it is sufficiently high as to have a probability of no more than one (1) in twenty (20) to have occurred by chance."[221]

Even when a test has been validated for certain purposes, it by no means follows that all applications of the test are valid.[222] This is an important concept in the educational setting where tests which may be valid for certain purposes are widely used for many other purposes for which there may be no validity evidence. A prime example is the SAT. While its proffered validity is based on the prediction of first-year college grades for high school juniors and seniors, it is used for purposes as diverse as awarding scholarships and identifying mathematically gifted seventh graders. Moreover, the SAT has no "general" validity for admissions purposes but must be validated separately by each institution which uses the test.[223] Similarly, the ASVAB, for which there is validity evidence for certain military jobs, is widely used in a range of civilian high school settings for purposes for which there is no validity evidence. Under the Uniform Guidelines, each use must be independently validated.

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[216] The Uniform Guidelines make it clear that in the employment context, "[a]ny validity study should be based upon a review of information about the job for which the selection procedure is to be used." 29 CFR § 1607.14(A). See also 29 CFR § 1607.14(B)(2) (job analysis in criterion-related validity study); 29 CFR § 1607.14(c)(2) (job analysis in content-related validity study); 29 CFR § 1607.14(D)(2) (job analysis for construct-related validity study).

[217] 29 CFR § 1607.14(B)(2).

[218] Id. See also 29 CFR §§ 1607.14(C)(2) and (D)(2).

[219] See Schlei and Grossman, *Employment Discrimination Law* at 114 (cited in note 182).

[220] Id at 129, 129 n 131.

[221] 29 CFR § 1607.14(B)(5). The Uniform Guidelines go on to note that the absence of a statistically significant relationship is not necessarily dispositive of the test's lack of validity. Id.

[222] According to the Uniform Guidelines, "[u]nder no circumstances will the general reputation of a test . . ., its author or its publisher, or casual reports of it's [sic] validity be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on a procedure's name or descriptive labels; all forms of promotional literature; data bearing on the frequency of a procedure's usage; testimonial statements and credentials of sellers, users, or consultants; and other nonempirical or anecdotal accounts of selection practices or selection outcomes." 29 CFR § 1607.9(A). The district court in *Larry P.* relied on this section of the Uniform Guidelines to criticize the use of IQ tests for purposes for which they had not been specifically validated. 495 F Supp at 971 (citing to 29 CFR § 1607.8 (1978)). In fact, the court read this section to require a showing of the validity of the test for each minority group for which it is used. Id.

Moreover, when test-users rely on a cutoff score, such as in an admissions or scholarship program, they must have independent validity evidence for the use of that cutoff score, even where validity has been demonstrated for the test generally.[224] The danger of setting an arbitrary cutoff score is that such a practice "may well lead to the rejection of applicants who were fully capable of performing the job."[225] Title VII law does not require a test-user to perform a separate validity study to justify a cutoff score;[226] however, there must be a professionally established basis to justify the cutoff point.[227] Accordingly, for example, institutions which award scholarships to National Merit finalists must be able to point to validity evidence to support the National Merit cutoff scores, including the use of different cutoff scores by state. Similarly, programs for academically talented youth must be able to justify both their reliance on the SAT and their reliance on the particular cutoff scores they have chosen. The same is true for institutions which use SAT cutoff scores in

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[223] The predictive value of the SAT is affected by a number of factors including gender. See discussion at notes 80-85 and accompanying text.

[224] *Guardians*, 630 F2d at 105.

[225] Id. The *Guardians* court continued, "This does not mean that every person who fails a test by a single point necessarily has a claim for legal redress. . . . But when an exam produces disparate racial results, a cutoff score requires adequate justification and cannot be used at a point where its unreliability has such an extensive impact. . . ." Id at 106. The court accordingly invalidated a cutoff score where the employer merely determined how many vacancies it needed to fill and selected as many applicants as it needed, moving down the list. Id at 105. See also *Thomas v Evanston*, 610 F Supp 422, 430-31 (ND Ill 1985); and *Burney v Pawtucket*, 559 F Supp 1089, 1103 (D RI 1983).

[226] See Uniform Guidelines, 29 CFR § 1607.5(H). "Where cutoff scores are used, they should normally be set so as to be reasonable and consistent with normal expectations of acceptable proficiency within the work force." Id.

[227] The *Guardians* court suggested that an employer could validate a cutoff score "by using a professional estimate of the requisite ability levels," or by finding a logical " 'break-point' in the distribution of [the] scores." *Guardians*, 630 F2d at 105. See also *Gillespie v Wis.*, 771 F2d 1035, 1041-42 (7th Cir 1985) (court accepted professional estimate of the minimum abilities needed to perform the job in question); *Bridgeport Guardians v Bridgeport Police Dept.*, 431 F Supp 931, 939-40 (D Conn 1977) (to be adequate, a passing grade must distinguish between those who are qualified for the job and those who are not).

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making admissions or placement decisions.[228]

Finally, tests must be fair. That is, they must measure abilities and predict performance in the same manner for all test-takers, without regard to sex, race, or national origin.[229] The Uniform Guidelines incorporate a requirement of test fairness[230] which is directly relevant to the analysis of education-related tests such as the SAT, which predict differently by gender. Indeed, the SAT's lack of "fairness" in precisely this sense of the term was a major underpinning of the decision in *Sharif*.[231]

Similarly, the Ninth Circuit held in *Larry P.* that a successful defense of the use of IQ tests for the disproportionate placement of Black children in classes for the educationally mentally retarded would have to show that "the tests predict specifically that black elementary schoolchildren (as opposed to white elementary schoolchildren) who score at or below 70 on the IQ tests are mentally retarded and incapable of learning the regular school curriculum."[232]

The Uniform Guidelines define "unfairness" as follows:

> When members of one race, sex, or ethnic group characteristically obtain lower scores on a selection procedure than members of another group, and the differences in scores are not reflected in differences in a measure of job performance, use of the selection procedure may unfairly deny opportunities to members of the group that obtains the lower scores.[233]

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[228] Similar concerns are present regarding the practice of basing selection decisions on the rank-ordering of scores, although this practice has not been identified as widespread in the educational arena. Under the Uniform Guidelines, to justify rank-ordering an employer must show that "a higher score . . . is likely to result in better job performance." 29 CFR § 1607.14(C)(9) (in reference to content validation).

[229] Legislative history to the Civil Rights Act of 1991, 105 Stat 1071, underscores the vitality of the legal requirement of fairness. In addressing § 106 of the Act, which prohibits certain score adjustments in employment related tests, 105 Stat at 1074, Rep Don Edwards, D-Cal, one of the chief House sponsors of the legislation, stated that "this section does not alter existing legal requirements with respect to demonstrating that a test operates as fairly with respect to one gender or race as with respect to another." He continued, "[a] test which does not provide the same opportunity for selection to men and women, or blacks and whites, or Hispanics and Anglos who perform equally well on the job, or which predicts job performances differently because of race or gender, would not be a fair test and would not be 'job-related for the position in question and consistent with business necessity.'" 137 Cong Rec H9529 (daily ed Nov 7, 1991).

[230] 29 CFR § 1607.14(B)(8) (1991). The Uniform Guidelines characterize fairness as a "developing concept," and caution that fairness studies are generally only technically feasible where there are large samples involved. Id. This requirement has not been widely applied in the employment context. See, for example, *Clady v County of Los Angeles*, 770 F2d 1421, 1431 (9th Cir 1985). The earlier formulation of the Uniform Guidelines' provision regarding fairness, which was adopted and applied by the courts, required that "differential validity" be established for minority and nonminority groups wherever technically feasible. See, for example, *Albemarle Paper Co. v Moody*, 422 US 405, 435 (1975); and *United States v Ga. Power Co.*, 474 F2d 906, 914 (5th Cir 1973).

[231] See *Sharif*, 709 F Supp at 353-54 ("while the SAT will predict college success as well for males within the universe of males as for females within the universe of females, when predictions are within the combined universe of males and females, the SAT *underpredicts* academic performance of females in their freshman year of college, and *overpredicts* such academic performance for males" (emphasis in original) (citations omitted)).

[232] *Larry P.*, 793 F2d at 980.

[233] 29 CFR § 1607.14(B)(8)(a). Test-users must generally investigate the issue of unfairness

When unfairness is shown, the test-user must revise or replace the selection instrument. Appropriate revisions include those which "assure compatibility between the probability of successful job performance and the probability of being selected."[234] In other words, scoring and/or test usage may be adjusted to assure that the test is used in a non-discriminatory manner.[235]

As is clear from the review of the empirical literature, there is either very little or no validity evidence for a wide range of education test uses. Consequently, many of the difficult and technical questions which can arise under the Uniform Guidelines and the case law are simply not relevant here. Instead, the far more straightforward analysis of whether baseline requirements for establishing validity in accordance with professionally accepted standards controls. Too often these requirements have not been addressed in any serious fashion at all, much less adequately met.

Even where validity studies may exist, fairness remains a major concern in the analysis of gender discriminatory test uses. For example, users who do not separately validate their use of SAT scores by gender when such use results in a disparate impact take a substantial risk. This risk particularly applies where sufficiently large samples are involved to make a fairness investigation technically feasible. Under the doctrine in the Uniform Guidelines, reflected in both *Sharif* and *Larry P.*, test-users may well not be able to demonstrate validity, and thus educational necessity within the meaning of the law, if their test use has not considered and does not adjust for the fact that the SAT underpredicts female performance and overpredicts male performance.

If after a showing of adverse impact a test use is nonetheless determined to be valid, a complaining party can still prevail if he or she shows that the employer or educational institution can achieve the same end with a less discriminatory alternative to the test use at issue. Indeed, the consideration of less discriminatory alternatives is an integral part of the Uniform Guidelines scheme which requires that alternative selection procedures be considered as part of any validation study.[236] The Uniform Guidelines also require that test-users investigate alternative selection procedures which have "evidence of less adverse impact and substantial evidence of validity for the same job in similar circumstances."[237]

Title IX adopts this principle generally,[238] and the Title IX voca-

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where a selection procedure results in an adverse impact on a group which is a significant factor in the relevant labor market, and where it is technically feasible to so investigate. 29 CFR § 1607.14(B)(8)(b).

[234] 29 CFR § 1607.14(B)(8)(d).

[235] See discussion of *Kirkland v N.Y. State Dept. of Correctional Services*, 628 F2d 796 (2d Cir 1980), at notes 373-76 and accompanying text.

[236] 29 CFR § 1607.3(B).

[237] Id.

[238] See, for example, 34 CFR § 106.21(b)(2) (admissions).

tional education guidelines and counseling regulations take the principle further. Once disparate impact has been established, the vocational education guidelines explicitly put the burden on the test-user to demonstrate that less discriminatory alternatives are not available.[239] The counseling regulation takes a slightly different approach but reaches the same end, since it requires that upon a showing of disparate impact a test-user must take such action as is necessary to assure itself that the impact is not the result of discrimination.[240] While the regulation clearly requires the test-user to evaluate the validity of the instrument, it necessarily also requires the test-user to assure itself that less discriminatory alternatives are not available.

Sound policy considerations support these deviations from the Title VII model. As discussed above, while an employer may have a legitimate interest in "weeding out" unqualified applicants, education is designed to create these qualifications in the first place. Accordingly, it is appropriate to put a higher burden on a test-user to justify a test with a disparate impact in education, as opposed to employment, uses.[241]

c. Implications of the Civil Rights Act of 1991

The language and history of Title IX and its regulations thus support the application of an analysis at least as stringent as the *Griggs*-Uniform Guidelines analysis developed under Title VII to sex discrimination in education. However, since 1989 there have been two dramatic changes in the framework for analyzing disparate impact discrimination under Title VII. First, in *Wards Cove Packing Co. v Atonio*,[242] the Supreme Court reversed *Griggs* with respect to both the allocation and the nature of the burdens of proof on the respective parties. Subsequently, with the enactment of the Civil Rights Act of 1991, Congress rejected *Wards Cove* and codified a *Griggs*-based disparate impact cause of action as part of Title VII.

While the statutory language and controlling legislative history of the Civil Rights Act of 1991 reflect Congress' clear intent to reject *Wards Cove* and restore *Griggs*, it is likely that questions regarding the precise interpretation of the new disparate impact provision will be aggressively litigated. The better view, as set out below, is that the Civil Rights Act of 1991 will be construed to restore *Griggs* fully. As such, it will provide strong support for extending a *Griggs*-based standard to Title IX disparate impact analysis as well. However, insofar as the courts ultimately adopt an interpretation of the Civil Rights Act of 1991 which does not squarely cohere with *Griggs*, that interpretation should not extend to Title IX.[243]

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[239] 34 CFR, Part 100, App B(IV)(K).

[240] 34 CFR §§ 106.36(b) and (c).

[241] See discussion of the Title IX disparate impact analysis at notes 161-70 and accompanying text.

[242] 490 US 642 (1989). Non-white cannery workers at Wards Cove's Alaskan salmon canneries challenged hiring and promotion practices, alleging that these practices were responsible for the extreme racial stratification of the workforce. The Supreme Court rejected their claims. Id.

The Civil Rights Act of 1991 was enacted to reverse a series of Supreme Court decisions narrowly interpreting the law of employment discrimination[244] and to provide, for the first time, a monetary damages remedy in Title VII cases.[245] One of the prime targets of the legislation was the Supreme Court's decision in *Wards Cove*. The Court in *Wards Cove* held that any legitimate business reason will constitute business necessity and justify a practice giving rise to a disparate impact. Furthermore, the Court shifted the burden of persuasion from the defendant to the plaintiff, requiring the plaintiff to establish the lack of business necessity, although the defendant retained the burden of producing evidence of justification for the practice.[246] Finally, the Court addressed the plaintiff's rebuttal showing of a less discriminatory alternative, making it clear that cost and administrative convenience were fully appropriate employer considerations in rejecting an alternative approach.[247]

The Civil Rights Act of 1991 rejected *Wards Cove* and restored a *Griggs*-based analysis to Title VII disparate impact discrimination. First, it put the burden of proving business necessity back on the defendant once the plaintiff has established a disparate impact.[248] Second, the Act provides that in order to rebut the plaintiff's prima facie case, the employer must demonstrate that the discriminatory practice is "job related for the position in question and consistent with business necessity."[249] While the Act does not define these terms, they are squarely grounded in *Griggs*. The linkage of business necessity and the requirement that the practice must be job-related for the position in question provides a forthright endorsement of the *Griggs* doctrine that job-relatedness and business necessity are simply two sides of the same coin.[250]

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[243] See discussion at notes 171-76 and accompanying text.

[244] In addition to *Wards Cove*, the legislation also reversed in part the Supreme Court's decisions in, inter alia, *Patterson v McLean Credit Union*, 491 US 164 (1989); *Price Waterhouse v Hopkins*, 490 US 228 (1989); *Martin v Wilks*, 490 US 755 (1989); and *Lorance v AT&T Technologies*, 490 US 900 (1989).

[245] Until the passage of the Civil Rights Act of 1991, Title VII provided only equitable remedies. See 42 USC § 2000e-5(g). The Civil Rights Act of 1991 creates a monetary damages remedy including both punitive and compensatory damages for intentional violations of Title VII and the Americans with Disabilities Act through a new statutory section codified at 42 USC § 1981A. The standard for the award of damages is based on 42 USC § 1981, which provides damages in cases of intentional employment discrimination on the basis of race or national origin. However, unlike § 1981, which does not limit the amount of damages which may be awarded, the new § 1981A limits available damages through a sliding scale of caps based on the number of employees of the employer and ranging from $50,000 to $300,000. 42 USC § 1981A(b)(1)(3). Legislation was introduced in both the House and the Senate in late 1991 to remove the caps. HR 3975, 102d Cong, 1st Sess (1991); S 2062, 102d Cong, 1st Sess (1991).

[246] *Wards Cove*, 490 US at 659-60. While the *Wards Cove* court insisted that its holding was consistent with preexisting law with regard to other parts of the decision, it acknowledged with regard to the burden of proof question that "some of our earlier decisions can be read as suggesting otherwise." Id at 660.

[247] The Court also addressed the nature of the plaintiff's burden in making out a prima facie case, introducing a requirement that plaintiffs demonstrate "that *specific elements* of the . . . hiring process have a significantly disparate impact. . . ." Id at 658 (emphasis added). While not affecting challenges focusing solely on the giving of tests, which is viewed as a single employment practice, see, for example, *Allen v Seidman*, 881 F2d 375 (7th Cir 1989), this "disaggregation" requirement was exceedingly burdensome in disparate impact cases involving a series of employment practices which could include testing.

[248] Regarding the prima facie case, the Act maintains a general disaggregation requirement for Title VII cases but provides that, "if the complaining party can demonstrate to the court that

Moreover, the actual language in the Civil Rights Act of 1991 is taken verbatim from the section of the Americans With Disabilities Act ("ADA")[251] which addresses defenses in disparate impact cases based on disability discrimination and which in turn incorporated *Griggs*. In his floor statement regarding the Civil Rights Act of 1991, Congressman Don Edwards, D-Cal, one of the Act's principal House sponsors, explained this connection and went on to set out the meaning of the ADA language:

> As explained in the legislative history and subsequent regulations issued under that Act [the ADA], this language clearly requires proof by an employer of a close connection between a challenged practice with disparate impact and the ability to actually perform the job in question. See, e.g., Report on the ADA by House Committee on Education and Labor at 343-44, 345; Report on the ADA by the House Committee on the Judiciary at 482.[252]

If the employer satisfies its burden, the plaintiff may still prevail by demonstrating that another less discriminatory employment practice is

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the elements of a respondent's decisionmaking process are not capable of separation for analysis, the decisionmaking process may be analyzed as one employment practice." Civil Rights Act of 1991, § 105(k)(1)(B)(i), 105 Stat at 1074. Tests will thus continue to be analyzed as a single employment practice. Furthermore, certain Title IX regulations specifically diverge from Title VII in this area. The Title IX requirement should, of course, apply. An example is found in the Title IX counseling regulation, 34 CFR § 106.36(c) (where there is a substantial gender disproportionate enrollment in a particular class, the recipient must "assure itself" that such disproportion is not the result of discrimination in counseling or appraisal materials). Under this regulation, Title IX plaintiffs need only show a disproportionate enrollment and there is no requirement at all that they disaggregate the causes of such disproportion.

[249] The Civil Rights Act of 1991 states in pertinent part:

> An unlawful employment practice based on disparate impact is established under this title only if — (i) a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.

Civil Rights Act of 1991, § 105(k)(1)(A), 105 Stat at 1074.

[250] See, for example, *Griggs*, 401 US at 431: "The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited."

[251] 42 USCA § 12113 (1990).

[252] 137 Cong Rec H9531 (daily ed Nov 7, 1991). For a further discussion of the ADA standard and its relationship to the standard incorporated in the Civil Rights Act of 1991, see 137 Cong Rec S15466 (daily ed Oct 30, 1991) (statement in support of the Civil Rights Act of 1991 by Sen Tom Harkin, D-Iowa, chief sponsor of the ADA).

available and that the defendant refuses to adopt it.[253] In an unusual statutory provision, the Act states that the standard for this demonstration "shall be in accordance with the law as it existed on June 4, 1989, with respect to the concept of 'alternative employment practice.' "[254] June 4, 1989 was the day before *Wards Cove* was decided. The Civil Rights Act of 1991 thus rejects the *Wards Cove* formulation of alternative employment practices and restores the pre-*Wards Cove* standard, most clearly presented in *Albemarle Paper Co. v Moody*.[255]

Legislative history confirms this analysis of the disparate impact section. The Civil Rights Act of 1991 specifically endorses exclusive legislative history for interpreting "any provision of this Act that relates to Wards Cove-Business Necessity/cumulation/alternative business practice."[256] Regarding the defendant's burden, a Congressional interpretive memorandum states that "[t]he terms 'business necessity' and 'job related' are intended to reflect the concepts enunciated by the Supreme Court in *Griggs v Duke Power Co.*, 401 US 424 (1971) and in the other Supreme Court decisions prior to *Wards Cove Packing Co. v Atonio*, 490 US 642 (1989)."[257] Congress has thus left no doubt that it has rejected *Wards Cove* and restored *Griggs*. The memorandum does not address the alternative business practices question, leaving the statutory language to speak for itself. The only possible construction of that language is that the *Albemarle* standard, the standard in effect before *Wards Cove*, governs.[258]

Notwithstanding Congress' clear intent to restore the *Griggs* standard, as evident through both statutory language and supporting legislatively endorsed history, defendants in disparate impact cases may argue, based on a statement introduced into the legislative record by Senator Robert Dole, that the *Wards Cove* standard is still good law.[259] Indeed, in his signing statement, President Bush referred to Senator Dole's statement as the definitive history of the Civil Rights Act of 1991 and directed federal agencies to follow that interpretation.[260] However, the Dole statement is wholly irrelevant to the construction of the disparate impact provisions of the Act for the simple reason that it is not part of the exclusive, statutorily approved legislative history.[261] Moreover, Senator Dole had been an opponent of the legislation until the very last moment, and not a chief sponsor.[262] However, given the President's effort to bootstrap it into the controlling interpretation, it is useful to address briefly why it is not persuasive in any event.

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[253] Civil Rights Act of 1991, § 105(k)(1)(A)(ii), 105 Stat at 1074.

[254] Civil Rights Act of 1991, § 105(k)(1)(C), 105 Stat at 1074.

[255] 422 US 405 (1975).

[256] Sec. 105(b) of the Act states: "No statements other than the interpretive memorandum appearing at Vol. 137 Congressional Record S15276 (daily ed Oct 25, 1991) shall be considered legislative history of, or relied upon in any way as legislative history in construing or applying, any provision of this Act that relates to Wards Cove-Business Necessity/cumulation/alternative business practice." Civil Rights Act of 1991, 105 Stat at 1075.

[257] 137 Cong Rec S15276 (daily ed Oct 25, 1991).

[258] Id. Regarding disaggregation, the interpretive memorandum states, "[w]hen a decision-making process includes particular, functionally-integrated practices which are components of the same criterion, standard, method of administration, or test, such as the height and weight requirements designed to measure strength in *Dothard v Rawlinson*, 433 US 321 (1977), the particular, functionally-integrated practices may be analyzed as one employment practice." 137 Cong Rec S15276 (daily ed Oct 25, 1991). While tests clearly will be analyzed as a single practice, this explanation still leaves in place a disaggregation requirement which is substantially more restrictive than that under Title IX. In light of such a conflict, the Title IX rule should govern. See discussion at notes 161-70 and accompanying text.

[259] 137 Cong Rec S15473-76 (daily ed Oct 30, 1991) (statement of Sen Robert Dole, R-Kan). Dole's statement was joined by several Republican senators, all of whom had opposed the Civil Rights Act until the very last minute. See also 137 Cong Rec H9543-46 (daily ed Nov 7, 1991) (statement of Rep Henry Hyde, R-Ill).

Dole argues that instead of rejecting *Wards Cove*, the Civil Rights Act of 1991 actually embraces that decision, with the sole exception of the burden of proof question.[263] To reach this conclusion, Dole first reviews a number of versions of the disparate impact standard which had been advanced in Congress prior to the one which was ultimately adopted, all of which included definitions of business necessity. He observes that there is no definition of business necessity in the enacted version and assumes, without explanation, that, in the absence of a statutory definition, the Purposes section of the Act[264] controls the meaning of both "job-related for the position in question" and "business necessity." This section includes the same language as that in the statutorily approved legislative history, referring to Congress' intent to adopt the principles set forth in *Griggs* and other Supreme Court decisions prior to *Wards Cove*.[265] Dole then argues that post-*Griggs* cases, principally including *New York Transit Authority v Beazer*[266] and *Watson v Fort Worth Bank & Trust*,[267] incorporate the same standard as *Wards Cove*.

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[260] Referring to the disparate impact provision of the Civil Rights Act of 1991, the President stated, "[t]hese highly technical matters are addressed in detail in the analyses of S1745 [the Civil Rights Act as passed by Congress] introduced by Senator Dole on behalf of himself and several other Senators and of the Administration (137 Cong Rec S15472-S15478 (daily ed Oct 30, 1991); 137 Cong Rec S15953 (daily ed Nov 5, 1991)). These documents will be treated as authoritative interpretive guidance by all officials in the executive branch with respect to the law of disparate impact as well as the other matters covered in the documents." Statement on signing the Civil Rights Act of 1991, 27 Weekly Comp Pres Doc 1701 (Nov 21, 1991).

[261] For statutory approval of legislative history, see Civil Rights Act of 1991, § 105(b), 105 Stat at 1075.

[262] It is a basic rule of statutory construction that statements by members, as distinct from sponsors or committee members, during legislative debate are considered only "where they show a common agreement in the legislature about the meaning of an ambiguous provision," Norman J. Singer, *Sutherland Statutes and Statutory Construction* § 48.13 (4th ed, Callaghan, 1984), or if they are consistent with statutory language and other legislative history which justify reliance upon them as evidence of legislative intent. Id. As a minority view in direct opposition to both statutory language and the statements of the chief sponsors, Dole's views are entitled to no weight.

[263] According to Sen Dole, "[t]he bill embodies longstanding concepts of job-relatedness and business necessity and rejects proposed innovations. In short, it represents an affirmation of existing law, including *Wards Cove*." 137 Cong Rec S15474 (daily ed Oct 30, 1991).

[264] Civil Rights Act of 1991, 105 Stat at 1071.

[265] See notes 256-58 and accompanying text.

[266] 440 US 568 (1979).

[267] 487 US 977 (1988).

Therefore, he concludes, the Purposes section demonstrates that the Civil Rights Act of 1991 actually codifies *Wards Cove*, and thus all that an employer need establish to defeat a disparate impact claim is a relationship between the discriminatory practice and some legitimate business purpose.

This argument is not supported. First, since the formulation of the employer's burden is taken straight out of the ADA — in addition to incorporating language which is firmly based in *Griggs* — it cannot reasonably be argued that it is devoid of intrinsic meaning or in need of statutory definition at all. Moreover, the pre-*Wards Cove* cases that Dole relies on do not contain holdings which square with *Wards Cove*. There is no majority decision in *Watson* and, given the reference in the Purposes section to "decisions," Congress demonstrated no intent to adopt Justice O'Connor's plurality opinion in that case. Furthermore, the holding in *Beazer* is a classic application of the *Griggs* job-relatedness standard. In *Beazer*, the Court held that methadone users could be excluded from certain positions with the New York City Transit Authority because they could not reliably perform the specific job requirements of these "safety sensitive" positions.[268]

In sum, Dole's interpretation turns the plain meaning of the statutory language on its head as he argues that the terms "job-related for the position in question" and "consistent with business necessity" do not mean that at all, but only mean that there must be some general connection to the employer's legitimate business concerns. To the contrary, by setting out a job-relatedness standard, Congress has spoken clearly: practices which result in a disparate impact on a protected class must be related to the job in question and must be justified by business necessity. In short, they must satisfy the test set forth by the Supreme Court in *Griggs*.

An analysis of the Civil Rights Act of 1991 thus confirms Congress' intent that strong standards should be applied in analyzing claims of disparate impact discrimination. In Title IX challenges to testing discrimination, educational test-users will similarly have the heavy burden of demonstrating that the test is justified by educational necessity and is related — that is, valid — for the particular use to which it is put.

4. The Particular Legal Issues Confronting Women of Color: The Intersection of Title IX and Title VI

The final question in the development of the federal statutory framework for analyzing discrimination in educational testing concerns the treatment of claims by females of color. While there has been little research done regarding the extent and nature of the test-based discrimination experienced by this population, the empirical literature which does exist makes it clear that minority females suffer a very real double jeopardy based on both their sex and their race. They are, for example, consistently the lowest scorers on tests ranging from the SAT[269] to the ASVAB.[270] Moreover, their injury is not neatly attributable to either their racial or gender status; rather, it flows from a complex, and by no means fully understood, interaction of the two.

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[268] 440 US at 587 n 31. See also *Conn. v Teal*, 457 US 440, 446 (1982) (describing *Griggs* as holding tests invalid because "they had a disparate impact and were not shown to be *related to job performance*" (emphasis added)).

On their face the two relevant statutes, Title IX and Title VI, do not recognize the multidimensional nature of this discrimination. They separately prohibit sex discrimination and race or national origin discrimination, but not their combined impact. However, the problems presented by forcing a claim brought by women of color to be tried as either a sex discrimination case or a race/national origin discrimination case can be substantial. Where defenses are available against race and sex discrimination claims when analyzed separately, a bona fide victim of multiple discrimination may well be left without any remedy at all. For example, in a challenge to the discriminatory impact of the ASVAB by a female of color, the defendant could argue that gender-linked score differentials, such as the lower scores of women on the mechanical and electronic sections of the test, are irrelevant to a race claim. Similarly, racial differentials could be factored out of a sex discrimination claim. The remaining sex or race discrimination could then be insufficient to support a finding of a violation of the law. This result could occur despite the fact that females of color score lower on the ASVAB than do members of any other group and suffer the greatest injury from the use of ASVAB scores.

However, a jurisprudence weaving together the well-established principles prohibiting sex and race/national origin discrimination is beginning to develop which could address satisfactorily the unique problems faced by women of color. The analysis, which is found in legal commentary[271] as well as in several cases, is based in the doctrine of

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[269] From highest scoring group to lowest, the 1991 SAT average combined scores by gender and ethnicity were as follows: Asian American males, white males, Asian American females, white females, Native American males, Latin American males, Mexican American males, Native American females, Puerto Rican males, Latin American females, Mexican American females, Black males, Puerto Rican females, and Black females. College Board, *1991 National Ethnic/Sex Data* (College Entrance Examination Board, 1991) (cited in note 20).

[270] The ASVAB reports academic and occupational scores. Both the academic and occupational scores of females of color are particularly low. On the academic composite, race differences predominate; the scores of white students, both male and female, are approximately twice as high as those of Hispanic and Black students. By contrast, on the occupational scores, gender differences are particularly significant, with males outscoring females in their racial/ethnic group on both the mechanical and the electrical sections of the test. See note 43.

[271] See, for example, Cathy Scarborough, *Conceptualizing Black Women's Employment Experiences*, 98 Yale L J 1457 (1989); Judy Scales-Trent, *Black Women and the Constitution: Finding Our Place, Asserting Our Rights*, 24 Harv CR-CL L Rev 9 (1989); Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidis-*

"sex-plus discrimination." "Sex-plus discrimination" has been applied to cases in which an employer singles out a certain subset of women for discrimination. It was first recognized by the Supreme Court in *Phillips v Martin Marietta Corp.*,[272] one of the early important sex discrimination cases decided under Title VII. The Court found a prima facie showing of discrimination where the employer refused to hire females with preschool children although it hired males with preschool children. This finding was in spite of the fact that only some, and not all, women were affected by the policy.[273]

The Fifth Circuit adopted a combined gender *and* race approach by analogy to the sex-plus theory in *Jefferies v Harris County Community Action Association*, a Title VII case.[274] The plaintiff, a Black woman, challenged her employer's failure to promote her to the position of Field Representative. Because the person promoted into the job was a Black man, she could not prove race discrimination.[275] In addition, although the lower court's findings were not dispositive, statistical evidence appeared to make the sex claim difficult to prove, as it showed that one of the previous Field Representatives was a woman and that women held approximately half of the employer's supervisory positions.[276] However, the plaintiff did show that every position she applied for had been filled by either a man or a white woman.[277]

In considering the combined claim, the court held that Black women are a protected class under Title VII. "We agree that discrimination against Black females can exist even in the absence of discrimination against Black men or white women."[278] In reaching this conclusion the Fifth Circuit relied on *Phillips v Martin Marietta Corp.* and the cases applying the sex-plus theory.[279] It explained:

> an employer may not apply different standards of treatment to women with young children, to married women, or to women who are single and pregnant. It is beyond belief that, while an employer may not discriminate against these subclasses of women, he could be allowed to discriminate

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crimination Doctrine, Feminist Theory and Antiracist Politics, 1989 U Chi Legal F 139 (1989); and Elaine W Shoben, *Compound Discrimination: The Interaction of Race and Sex in Employment Discrimination*, 55 NYU L Rev 793 (1980).

[272] 400 US 542 (1971).

[273] Id at 544. See also *In re Consolidated Pretrial Proceedings*, 582 F2d 1142, 1145 (7th Cir 1978) (invalidating policy requiring that female cabin attendants with children accept ground duty positions); *Jacobs v Martin Sweets Co.*, 550 F2d 364, 371 (6th Cir 1977) (finding Title VII violation where company fired single women who became pregnant); and *Sprogis v United Air Lines, Inc.*, 444 F2d 1194, 1198 (7th Cir 1971) (finding that no-marriage rule for female flight attendants violated Title VII). The decision in *Phillips v Martin Marietta*, 400 US 542, was cited with approval in *UAW v Johnson Controls, Inc.*, 111 S Ct 1196 (1991).

[274] 615 F2d 1025 (5th Cir 1980).

[275] Id at 1029-30.

[276] Id at 1030-31.

[277] Id at 1029.

[278] Id at 1032.

[279] Id at 1033. See cases cited in note 273.

against black females as a class.[280]

The Tenth Circuit relied on *Jefferies* to reach a similar conclusion in *Hicks v Gates Rubber Co.*[281] In *Hicks*, the Tenth Circuit remanded a Title VII case so that the district court could aggregate the evidence of racial hostility with the evidence of sexual hostility to determine if the plaintiff, a Black female, had been subjected to a hostile working environment.[282] Other cases applying a combined race and sex analysis include *Judge v Marsh*,[283] which involved the Title VII claim of a Black woman in the Army, and *Graham v Bendix Corp.*,[284] a Title VII discharge claim brought by a Black woman. Further, in *Chambers v Omaha Girls Club, Inc.*,[285] the Eighth Circuit accepted the district court's combined race and sex analysis of a Title VII claim brought by a Black single woman who became pregnant and was discharged from her position at the Omaha Girls Club.[286]

Although developed in the Title VII context, this framework provides strong precedential and conceptual support for combining Title VI and Title IX claims where a minority female is subjected to discrimination in education. Whether the name for the claim would be "race-plus," "sex-plus," or "race and sex" discrimination, the important fact is that the multidimensional effect of race and sex discrimination could be considered within the confines of one claim. The fact that two statutes are involved — unlike the analysis under Title VII where one statute addresses both race and sex discrimination — should not be of any import. The legal standards implicated under Title IX and Title VI, along with the underlying purpose of prohibiting discrimination, are identical. Moreover, in *Phillips v Martin Marietta* and its immediate progeny, the "plus" factor was not a statutorily prohibited criterion. Accordingly, under a strict application of that principle, a Title IX claim could be made on behalf of virtually any subset of women, or a Title VI claim could be made on behalf of any subset of members of a racial or national minority group. That being the case, the observation in *Jefferies* that it would be "beyond belief" that discrimination against these groups would not be tolerated but discrimination against minority females could be, is fully appropriate.

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[280] Id at 1034.

[281] 833 F2d 1406 (10th Cir 1987).

[282] Id at 1416-17.

[283] 649 F Supp 770 (D DC 1986). The *Judge* court added an additional constraint to the analysis: a plaintiff in a Title VII case can claim only one "plus," otherwise, the statute would "be splintered beyond use and recognition." Id at 780.

[284] 585 F Supp 1036 (ND Ind 1984). The court held, "[u]nder Title VII, the plaintiff as a black woman is protected against discrimination on the double grounds of race and sex, and an employer who singles out black females for less favorable treatment does not defeat plaintiff's case by showing that white females or black males are not so unfavorably treated." Id at 1047.

[285] 834 F2d 697 (8th Cir 1987).

[286] Id at 700 n 9, 701, 701 n 12. Ms. Chambers' claim was ultimately rejected on other grounds. However, the decision put to rest any question regarding the Eighth Circuit's position on this issue arising out of *DeGraffenreid v General Motors*, 413 F Supp 142 (ED Mo 1976), aff'd in part, rev'd in part, 558 F2d 480 (8th Cir 1977). The district court in *DeGraffenreid* had refused to find that Black women are a protected class under Title VII and had required the plaintiffs' race and sex claims to be tried separately. It proceeded to reject the plaintiffs' Title VII claims. The Eighth Circuit affirmed the dismissal on other grounds, noting that "we do not subscribe entirely to the district court's reasoning in rejecting appellants' claim of race and sex discrimination under Title VII." 558 F2d at 484.

In the context of testing discrimination there are broad potential applications of a combined Title IX and Title VI "sex-plus" or "race-plus" theory. These applications include the analysis of the full set of problems confronted by young women of color in connection with uses of the ASVAB and the SAT. The impediment is not so much the lack of availability of a cause of action as it is the lack of information regarding the effects of test usage on minority females. As more is learned about the impact of testing discrimination on girls and women of color, this theory will surely have wide-ranging impact.[287]

B. Federal Constitutional Analysis

In evaluating the legal constraints concerning discriminatory test uses in education, Fourteenth Amendment equal protection analysis is also a key part of the equation. It applies to actions taken by public schools and universities as well as other public entities.[288] Two basic models of equal protection analysis are potentially applicable: "heightened scrutiny" where the practices at issue discriminate on the basis of gender on their face, or where an invidious intent to discriminate on the basis of gender is present; and "rational basis" analysis in other circumstances. Because the discriminatory test uses we have identified are rarely gender-discriminatory on their face but instead present examples of facially neutral practices which nonetheless adversely affect girls and women, a showing of intentional discrimination will often be a necessary element of a claim invoking the heightened scrutiny standard. However, even where invidious intent cannot be demonstrated, rational basis promises to be a useful tool in the effort to eradicate gender discrimination in education-related test uses.

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[287] The precedent from Title VII supporting a combination race and sex discrimination claim could also support a combined claim of race and sex discrimination under the Constitution. The constitutional analysis presents additional considerations because, unlike the statutory analysis, race and sex discrimination receive different levels of judicial scrutiny under the Constitution. Nonetheless, a plaintiff pursuing a "sex-plus" or "race-plus" constitutionally based analysis could choose whether to bring her claim under a race or sex theory and might well opt for the race alternative because of the higher scrutiny afforded. At least one commentator would avoid these problems altogether with the argument that combined race and sex claims are entitled to the most rigorous scrutiny. See Scales-Trent, 24 Harv CR-CL L Rev at 23 (cited in note 271) (constitutional claims of Black women may be entitled to more rigorous scrutiny than those of Black men or white women because of their social and historical status).

[288] The protections of the Fourteenth Amendment have been read to limit only state action. See, for example, *Moose Lodge No. 107 v Irvis*, 407 US 163 (1972). But, of course, the Fourteenth Amendment limits not only the state government but public education officials as well. See, for example, *Brown v Bd. of Educ.*, 347 US 483 (1954) (finding segregation of public school system in violation of Equal Protection Clause).

1. Heightened Scrutiny

Challenges to gender-based discrimination under the Equal Protection Clause are entitled to a heightened scrutiny standard of review. This standard falls between the rational relationship test, which ordinarily applies in the absence of a protected classification,[289] and the strict scrutiny accorded in cases of discrimination based on race, alienage, national origin, and religion.[290] Under heightened scrutiny, the party relying on the gender-based classification has the

> burden of showing an 'exceedingly persuasive justification' for the classification. *Kirchberg v Feenstra*, 450 US 455, 461 (1981); *Personnel Administrator of Mass. v Feeney*, 442 US 256, 273 (1979). The burden is met only by showing at least that the classification serves 'important governmental objectives and that the discriminatory means employed' are 'substantially related to the achievement of those objectives.'[291]

Moreover, judicial review must be free of fixed or stereotypical notions concerning the roles and abilities of men and women.[292] Under this standard, many forms of gender discrimination have been found to violate the Fourteenth Amendment's requirement of equal protection.[293]

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[289] See, for example, *City of Cleburne v Cleburne Living Center*, 473 US 432 (1985) (applying only rational relationship test in case of mental retardation); *Hooper v Bernalillo County Assessor*, 472 US 612 (1985) (applying rational relationship to veteran status); and *Williams v Vt.*, 472 US 14 (1985) (applying rational relationship to residency).

[290] See, for example, *Castaneda v Partida*, 430 US 482 (1977) (national origin); *In re Griffiths*, 413 US 717 (1973) (alienage); *Anderson v Martin*, 375 US 399 (1964) (race); and *Oyler v Boles*, 368 US 448, 456 (1962) (religion an "arbitrary classification" akin to race under the Equal Protection Clause).

[291] *Miss. U for Women v Hogan*, 458 US 718, 724 (1982) (quoting *Wengler v Druggists' Mutual Ins. Co.*, 446 US 142, 150 (1980)). Prior to 1971, the Supreme Court applied a rational basis analysis to gender-based classifications and never held such a classification to violate the Equal Protection Clause. See, for example, *Hoyt v Fla.*, 368 US 37 (1961) (applying rational basis test in upholding law imposing duty on men only to serve on juries). In *Reed v Reed*, 404 US 71 (1971), however, the Court began a ten-year process of developing a more appropriate analysis for gender-based discrimination which would afford women meaningful protection under the Equal Protection Clause. The Court's most recent statement on the issue, found in *Hogan* as discussed here, demonstrates that "heightened" or "intermediate" scrutiny is firmly established as the proper analysis in cases of gender discrimination.

[292] *Hogan*, 458 US at 724-25. See also, for example, *Stanton v Stanton*, 421 US 7 (1975) (striking down differential age of majority law based on "old notions").

[293] See, for example, *Kirchberg v Feenstra*, 450 US 455 (1981) (invalidating a statute giving husbands exclusive authority over community property); *Califano v Westcott*, 443 US 76 (1979) (invalidating a provision which provided aid to children with unemployed fathers, but not unemployed mothers); *Califano v Goldfarb*, 430 US 199, 206 (1977) (invalidating a Social Security provision granting survivor's benefits to all widows but only to widowers who had been receiving half of their support from their wives); *Craig v Boren*, 429 US 190 (1976) (invalidating a sex-based age differential for the legal consumption of beer); *Weinberger v Wisenfeld*, 420 US 636 (1975) (invalidating a Social Security provision providing payments to widows, but not widowers, with children); and *Frontiero v Richardson*, 411 US 677 (1973) (invalidating a statute which required female, but not male, Army personnel to prove that their spouses were dependent in order to receive benefits).

In the case of facial discrimination, the intent to discriminate — a necessary element of a race- or gender-based equal protection claim — is presumed. Laws or practices which are neutral on their face but which have a disproportionately adverse effect upon women or racial minorities may also violate equal protection under a heightened or strict scrutiny analysis. However, to support this claim, the plaintiff must establish an invidious intent to discriminate.[294] In determining whether the requisite intent exists, discriminatory impact "provides an 'important starting point' [*Village of Arlington Heights v Metropolitan Housing Dev. Corp.*, 429 US 252, 266 (1977)] but purposeful discrimination is 'the condition that offends the Constitution.' [*Swann v Charlotte-Mecklenburg Bd. of Educ.*, 402 US 1, 16 (1971)]."[295]

In order to prove intent, it is not necessary to present the proverbial "smoking gun." In addition to the existence of a disparate impact,[296] other relevant factors include: "the historical background of the decision . . . particularly if it reveals a series of official actions taken for invidious purposes;"[297] departures from the normal procedural or substantive sequence of events which may indicate that improper purposes are playing a role; and the legislative or administrative history of the decision, including contemporaneous statements made by members of the decisionmaking body.[298] In addition, the foreseeability of an adverse impact on a protected group may give rise to an inference of invidious intent.[299]

Nonetheless, as a practical matter, it has been difficult for litigants to show the requisite invidious intent to discriminate in constitutionally based disparate impact cases.[300] This has also been true in the few challenges to educational test uses which have addressed the issue, all of which have been in the context of racial or national origin discrimination.[301] The only cases which have prohibited test uses on these constitutional grounds have been those where there was a history of de jure segregation which continued to affect current students.[302]

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[294] *Washington v Davis*, 426 US at 242, 246, 256; *Feeney*, 442 US at 272.

[295] *Feeney*, 442 US at 274.

[296] As the Supreme Court explained in *Washington v Davis*, "[n]ecessarily, an invidious discriminatory purpose may often be inferred from the totality of the relevant facts, including the fact, if it is true, that the law bears more heavily on one race than another." 426 US at 242.

[297] *Arlington Heights v Metropolitan Housing Dev. Corp.*, 429 US at 267.

[298] Id at 267-68. See also *De La Cruz v Tormey*, 582 F2d 45, 58-59 (9th Cir 1978) (citing same factors).

[299] For example, the Court in *Feeney* held that "when the adverse consequences of a law upon an identifiable group are as inevitable as the gender-based consequences of [Massachusetts' veterans' preference statute at issue], a strong inference that the adverse effects were desired can reasonably be drawn." *Feeney*, 442 US at 279 n 25. See also *Columbus Bd. of Educ. v Penick*, 443 US 449, 464 (1979) ("actions having foreseeable and anticipated disparate impact are relevant evidence to prove the ultimate fact, forbidden purpose").

[300] For example, in *Washington v Davis*, 426 US 229, the Court upheld the use of a test administered to applicants for positions as police officers with the District of Columbia, despite the fact that four times as many Blacks as whites failed the test. In *Feeney*, 442 US 256, the Court similarly rejected a challenge on grounds of gender discrimination to the application of a veterans' preference law which virtually excluded women from many categories of civil service jobs. But see *Rogers v Lodge*, 458 US 613, 622 (1982) (Supreme Court upheld district court's finding that at-large electoral system in Georgia "was being maintained for the invidious purpose of diluting the voting strength of the black population").

2. Rational Relationship

In the absence of a facial classification or the showing of an invidious intent to discriminate, a classification created by a test use will be evaluated under the rational basis test. Under this test, "[t]he State may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational."[303] While the rational basis test certainly provides deference to governmental classifications, it is not a proxy for automatic approval of such classifications. For example, in *City of Cleburne v Cleburne Living Center*, the Court invalidated a zoning ordinance requiring a home for mentally retarded individuals to seek a use permit not required of other multiple dwelling facilities.[304] The Court found that there was no legitimate basis for the ordinance and that it was based merely on an "irrational prejudice against the mentally retarded."[305] Of direct relevance, the *Sharif* court found that New York State's use of SAT scores to award scholarships based on high school achievement failed the rational basis test because the SAT was not designed to measure such achievement.[306]

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[301] In *United States v State of S.C.*, 445 F Supp 1094 (D SC 1977), aff'd as *Nat'l Educ. Ass'n v S.C.*, 434 US 1026 (1978), the Supreme Court summarily affirmed the three-judge district court's conclusion that the state's use of the National Teacher Examination to certify teachers and set salaries did not violate equal protection although the test disqualified 83% of Black applicants as compared to 17.5% of white applicants, 434 US at 1027 (White, J., dissenting), and reproduced the significant pay differentials that had existed between Black and white teachers when the state had a dual segregated system of schools, 445 F Supp at 1104-07. See also *United States v LULAC*, 793 F2d 636, 646 (5th Cir 1986) (no violation in use of "pre-professional skills" test without showing of invidious intent despite a significant disparate impact, the state's awareness that disparate impact was likely before adopting test, a history of racial discrimination in Texas schools, and the failure of the Board to offer remediation courses or take other action to reduce the anticipated disparate effect); *Anderson v Banks*, 520 F Supp 472, 499, 486 (SD Ga 1981) (no invidious intent in use of high school exit examination despite "overwhelming and essentially uncontradicted" evidence of disparate impact on Black students); and *Larry P.*, 793 F2d 969, 984 ("pervasiveness of discriminatory effect [will not], without more, be equated with . . . discriminatory intent").

[302] In *Anderson v Banks* the court held that the exit examination requirement could not be imposed until those students who were exposed to a segregated educational system had graduated. 520 F Supp at 500-03. Similarly, in *Debra P.*, 474 F Supp at 244, the court enjoined for a period of four years Florida's requirement that students pass a "functional literacy examination" because of the state's history of de jure school segregation. Compare *Vaughns v Bd. of Educ.*, 758 F2d 983, 991-92 (4th Cir 1985) (where Black enrollment was disproportionately high in special education programs and low in gifted programs and district had not attained unitary status, plaintiffs entitled to presumption that disparities were causally related to prior segregation, and burden shifted to defendant to prove otherwise).

[303] *Sharif*, 709 F Supp at 364 (quoting *City of Cleburne v Cleburne Living Center*, 473 US 432, 446 (1985)).

[304] 473 US 432 (1985).

[305] Id at 450. See also *Hooper v Bernalillo County Assessor*, 472 US 612 (1985) (1981 NM statute granting property tax exemption to Vietnam veterans residing in state prior to May 8, 1976 is without rational basis); *Williams v Vt.*, 472 US 14 (1985) (exemption from car registration use tax for Vermonters who purchase cars out-of-state and paid sales tax to foreign states, but not for persons who became Vermont residents after purchasing a car elsewhere, violates equal protection); and *Metropolitan Life Ins. Co. v Ward*, 470 US 869 (1985) (Alabama tax favoring in-state insurance companies over out-of-state insurance companies unconstitutional).

While *Sharif* is the only case which has applied rational basis analysis to a claim of a gender discriminatory test use, its analysis is surely correct.[307] Where a test is designed and validated for a purpose unrelated to the use at issue — or it has not been validated at all — there cannot be a rational basis for the demonstrated discriminatory impact which results from that use. Because so many uses to which tests are put in the educational context have not been validated, the rational basis test has a significant potential applicability in this area.

In addition to the facts presented in *Sharif*, a prime example of a practice which would be vulnerable under rational basis analysis is the widespread use of the ASVAB for counseling high school students in connection with vocational education courses. As discussed earlier, the test has not been validated for this purpose. Moreover, scores on particular skill batteries — which reflect substantial gender differentials — have not been correlated with performance in civilian occupations in those areas.[308] But it is precisely these scores which are used for counseling. This use of the test is not rational. Similarly, the programs for gifted and talented adolescents, which include programs at public universities and which rely on SAT scores to identify candidates for admission, point to no hard evidence to support their use of the SAT. Yet the selection device they have chosen results in nearly twice as many males as females identified as mathematically gifted and offered the opportunity to participate in an enrichment program. Again, the rational basis for this test use is highly questionable.

In sum, while heightened scrutiny likely has a limited applicability to the matters at hand, a number of test uses may well be vulnerable under rational basis analysis.

C. State Constitutional Guarantees and Laws Prohibiting Gender Discrimination in Education

The legal analysis of gender bias in educational test uses is by no means limited to the federal constitutional and statutory provisions already discussed. State equal rights amendments (ERAs), the equal protection clauses of state constitutions, and statutory and regulatory provisions may well also prohibit gender-discriminatory testing.

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[306] *Sharif*, 709 F Supp at 364.

[307] Compare *Student Doe v Pa.*, 593 F Supp 54, 57 (ED Pa 1984) (with no discussion of the test at issue, the court concluded that a testing procedure for admitting students into a gifted class "may not be perfect, indeed it may not be the best method available, but the Court is unable to conclude that it is a method that cannot reasonably be used").

[308] See discussion at notes 95-99 and accompanying text.

Although there is virtually no case law applying these provisions to educational testing, their strong facial guarantees of equity provide an important source of law to complement and expand upon Title IX and federal equal protection analysis.

1. State Constitutional Guarantees

a. Equal Rights Amendments

State equal rights amendments (ERAs) have important implications for the analysis of gender-discriminatory test uses. Prompted by action towards a federal ERA,[309] fourteen states adopted ERAs as part of their state constitutions in the 1970s.[310] Two other states — Utah and Wyoming[311] — adopted ERAs in the 1890s to support those states' progressive guarantees of women's suffrage.[312] Most of these provisions are similar to the proposed federal Equal Rights Amendments.[313] Others also prohibit discrimination on the basis of race, color, or national origin.[314] Most of the state ERAs incorporate some state action requirement, although the natures of the requirements differ. Some states do not impose the rigorous requirements for a finding of state action which exist under the federal Constitution.[315]

The interpretation of state ERAs varies widely among the different states, with some states rigorously enforcing the prohibition of gender discrimination and others taking a more permissive approach.[316] Most courts impose at least "strict scrutiny" analysis to gender classifications.[317] This analysis is more stringent than the lower, intermediate level of scrutiny afforded gender classifications under the federal Constitution. Under strict scrutiny analysis, a gender-based classification can only be sustained upon the showing of a compelling state interest. Experience with the strict scrutiny test under the Fourteenth Amendment teaches that this is an exceedingly difficult burden to sustain.[318] Some states, including Pennsylvania, Washington, Colorado, and Maryland, have adopted a "strict scrutiny plus" or "absolute standard" which tolerates virtually no gender-based discrimination at all.[319] A few states have simply followed the federal constitutional standard — or applied a lower level of scrutiny than the federal standard — thus nullifying the value of any extant ERA in these states.[320] State ERAs are an important source of increased protection against discrimination for women in those states where they are interpreted to impose more than an intermediate level of scrutiny.[321]

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[309] After being introduced in every Congress since 1923, in 1972 a federal ERA was approved by overwhelming majorities in both the House of Representatives and the Senate and submitted to the states for ratification. Beth Gammie, *State ERAs: Problems and Possibilities*, 1989 U Ill L Rev 1123, 1124 (1989). The first section of the Amendment provides: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." HR J Res 208, 92d Cong, 1st Sess (1971); S J Res 8, 92d Cong 1st Sess (1971). The ERA had to be ratified by 38 states in order to be adopted as a Constitutional Amendment. In June of 1982 the deadline for ratification passed with only 35 states ratifying. Gammie, 1989 U Ill L Rev at 1124.

[310] The states are: Alaska, Alaska Const Art I, § 3 (1972); Colorado, Colo Const Art II, § 29 (1972); Connecticut, Conn Const Art I, § 20 (1974); Hawaii, Hawaii Const Art I, § 3 (1972); Illinois, Ill Const Art I, § 18 (1971); Maryland, Md Const Art 46 (1972); Massachusetts, Mass Const part 1, Art I (1976); Montana, Mont Const Art II, § 4 (1972); New Hampshire, NH Const part 1, Art II (1974); New Mexico, NM Const Art II, § 18 (1973); Pennsylvania, Pa Const Art I, § 28 (1971); Texas, Tex Const Art I, § 3(a) (1972); Virginia, Va Const Art I, § 11 (1971); and Washington, Wash Const Art 31, § 1 (1972).

[311] Utah Const Art IV, § 1 (1896), and Wyo Const Art 1, §§ 2, 3 and Art 6, § 1 (1890).

[312] See Lujuana Wolfe Treadwell and Nancy Walker Page, *Equal Rights Provisions: The Experience Under State Constitutions*, 65 Cal L Rev 1086, 1103 (1977).

[313] See, for example, the ERAs of Colorado, Hawaii, Illinois, Maryland, New Mexico, Pennsylvania, and Washington (cited in note 310).

[314] See, for example, the ERAs of Alaska, Connecticut, Massachusetts, New Hampshire, Montana, Texas, and Virginia (cited in note 310).

[315] See, for example, *Hartford Accident & Indem. Co. v Ins. Comm'n of the Commonwealth of Pa.*, 505 Pa 571, 586, 482 A2d 542, 549 (1984) ("[t]he rationale underlying the 'state action' doctrine is irrelevant to the interpretation of the scope of the Pennsylvania Equal Rights Amendment, a state constitutional amendment adopted by the Commonwealth as part of its own organic law").

While most state ERA cases focus on explicitly sex-based classifications, a small number have addressed the appropriate analysis of facially neutral policies with a disproportionate impact on one sex.[322] For example, in Massachusetts and in Maryland, where courts rigorously review claims of sex discrimination under the states' ERAs, courts have held that official actions which are neutral on their face can violate the ERA if they are discriminatory as applied without an additional showing of

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[316] See Elizabeth A. Sherwin, *Sex Discrimination and State Constitutions: State Pathways Through Federal Roadblocks*, 13 NYU Rev L & Soc Change 115, 133-36 (1984-85).

[317] See, for example, *Attorney Gen. v Mass. Interscholastic Athletic Ass'n*, 378 Mass 342, 393 NE2d 284, 291 (1979); *People v Ellis*, 57 Ill 2d 127, 311 NE2d 98, 101 (1974); and *Mercer v Bd. of Trust. North Forest Indep. School Dist.*, 538 SW2d 201, 204-05 (Tex Civ App 1976).

[318] See, for example, *City of Cleburne*, 473 US at 440 (laws that employ a suspect classification so seldom incorporate compelling state interests that they are "deemed to reflect prejudice and antipathy" such that they are subject to strict scrutiny).

[319] See, for example, *Darrin v Gould*, 85 Wash 2d 859, 540 P2d 882, 889-90 (1975); *Commonwealth v Butler*, 458 Pa 289, 328 A2d 851, 855 (1974); *Rand v Rand*, 280 Md 508, 374 A2d 900, 903 (1977); and *People v Salinas*, 191 Colo 171, 551 P2d 703, 705-06 (1976).

[320] See, for example, *Archer & Johnson v Mayes*, 213 Va 633, 194 SE2d 707, 710 (1973) (applying a rational basis standard to the state ERA); *Stanton v Stanton*, 30 Utah 2d 315, 517 P2d 1010, 1012 (1974) (applying rational basis analysis to federal equal protection-type issue), rev'd on federal equal protection grounds, 421 US 7 (1975); and *Dydyn v Dept. of Liquor Control*, 12 Conn App 455, 531 A2d 170, 175 (1987) (applying an intermediate standard of review).

[321] See, for example, *Hopkins v Blanco*, 457 Pa 90, 320 A2d 139 (1974) (common law rule that a wife had no right to recover for loss of her husband's consortium violates Pennsylvania ERA); *Opinion of the Justices to House of Rep.*, 374 Mass 836, 371 NE2d 426, 429-30 (1977) (bill prohibiting women from participating in contact sports with men violates Massachusetts ERA); *Kline v Ansell*, 287 Md 585, 414 A2d 929, 933 (1980) (common law rule that only a man could sue or be sued for criminal conversation violates Maryland ERA); *Darrin*, 540 P2d at 893 (athletic association rule forbidding girls to play on all-male high school football teams violates Washington ERA); and *Colo. Civ. Rights Comm'n v Travelers Ins. Co.*, 759 P2d 1358, 1361 (Colo 1988) (group health insurance policy which excluded from coverage medical expenses associated with normal pregnancy violates Colorado ERA).

[322] See Sherwin, 13 NYU Rev L & Soc Change at 126-33 (cited in note 316).

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intent.[323] The implications for the analysis of testing discrimination are substantial. Test uses which result in disparate impacts on the basis of sex — including admissions to post-secondary institutions and special programs, criteria for granting scholarships, and uses of tests in counseling or admissions to vocational education programs — would have to be justified, at a minimum, as serving a compelling state interest.

b. Equal Protection

In addition to the state ERAs, at least two state constitutional guarantees of equal protection have been held to provide stronger protections against gender discrimination than are found in the Fourteenth Amendment. Courts in Oregon and California have clearly found that sex-based classifications are suspect under their state constitutions and are entitled to strict scrutiny.[324] Courts in several other states appear to have adopted this conclusion, although their holdings are not as definitive.[325]

Furthermore, in California, the strict scrutiny standard has supported holdings that sex-based disparate impact discrimination is actionable without the proof of invidious intent.[326] This result has been alternatively framed under the analysis that intent to discriminate may be inferred from the legislature's awareness of the obvious consequences of legislation.[327] Under either analysis, however, public policies which rely on classifications giving rise to gender-based disparate impact are actionable without the onerous burden of proving intent as contemplated under federal constitutional law.[328]

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[323] See *Buchanan v Dir. of Div. of Empl. Sec.*, 393 Mass 329, 471 NE2d 345, 348-49 (1984) (citing *School of Braintree v Mass Comm'n Against Discrimination*, 377 Mass 424, 386 NE2d 1251, 1255-56 (1979) (court held that disparate impact discrimination was actionable, but rejected plaintiff's claim because the record was devoid of any factual findings of disparate impact)); *Burning Tree Club, Inc. v Bainum*, 305 Md 53, 501 A2d 817 (1985) (striking down under the Maryland ERA an exception to a law prohibiting sex discrimination that permitted clubs whose facilities operate with the primary purpose of serving or benefiting members of a particular sex to discriminate on the basis of sex, despite the alleged neutrality of the provision).

[324] See, for example, *Hewitt v State Accid. Ins. Fund Corp.*, 294 Or 33, 653 P2d 970, 975-79 (1982) (gender classification of workers' compensation statute invalidated under section of state constitution prohibiting laws granting privileges to any citizen not belonging to all citizens); *Sail'er Inn, Inc. v Kirby*, 5 Cal 3d 1, 95 Cal Rptr 329 (1971) (invalidating under state equal protection clause a law excluding most women from bartending).

[325] See, for example, *Moffett v Zitwogel*, 1990 WL 123068 (Del Super Ct); *Hanson v Williams County*, 389 NW2d 319, 323 n 9 (ND 1986). See also *S.W. Wash Ch., Nat'l Elec. Cont. Ass'n v Pierce County*, 100 Wash 2d 109, 128 n 3, 667 P2d 1092, 1102 n 3 (Wash 1983) (en banc) (while Washington constitution has in the past been construed to impose a strict scrutiny test for sex-based classifications, the state ERA alone now governs review of such classifications).

[326] For example, in *Hardy v Strumpf*, 37 Cal App 3d 958, 112 Cal Rptr 739 (1974), the plaintiffs challenged the Oakland Police Department's facially neutral height and weight requirements for the position of patrol officer. The court held that because sex-based classifications are suspect, "a seemingly neutral job requirement which has the effect of disqualifying a disproportionate number of one sex is discriminatory and must be viewed under the strict scrutiny test." 112 Cal Rptr at 743. Relying on statistics that showed that over 80% of all American women were effectively excluded by the height and weight requirements, the court found disparate impact. 112 Cal Rptr at 743-44. The court further found that the police department failed to show that the requirements were "demonstrably related to job performance." 112 Cal Rptr at 745. Accordingly, the court struck down the requirements, holding that "[i]t is not necessary to conclude that these standards were adopted with intent to discriminate. . . ." 112 Cal Rptr at 743.

[327] See *Boren v Cal. Dept. of Empl. Dev.*, 59 Cal App 3d 250, 130 Cal Rptr 683, 688-90 (1976)

As was just discussed in connection with the state ERAs, broad constructions of state equal protection guarantees may well lead to viable claims regarding gender discriminatory test uses. Given the fact that gender differentials in scoring are well-established in a number of standardized tests ranging from the ASVAB to the SAT, the use of such scores to allocate benefits would easily lead to an inference of intentional discrimination under the California analysis. Furthermore, it would likely be difficult for a test-user to successfully defend its use by demonstrating the requisite compelling state interest under a strict scrutiny analysis. Indeed, the strict scrutiny standard would almost surely exceed the Title IX standard of "educational necessity" under either a *Griggs* or a *Wards Cove* formulation.

2. State Educational Equity Laws

In addition to state ERAs and equal protection guarantees, state educational equity laws also provide an important resource for challenges to discriminatory test use. A number of states — including Alaska, California, Florida, Hawaii, Iowa, Maine, Massachusetts, New Jersey, Oregon, Rhode Island, Washington, and Wisconsin — have enacted laws modeled after Title IX which prohibit sex discrimination in educational programs or institutions receiving state or county financial assistance.[329] Other states have human or civil rights laws prohibiting sex discrimination in educational institutions or in public accommodations, defined broadly to include educational institutions.[330]

(holding unconstitutional an unemployment compensation law which disqualified any person who left his or her job because of marital or domestic duties and did not supply the family's major support from receiving unemployment insurance, because the fact that the law's disqualification would fall almost exclusively upon working wives was obvious to the legislature).

[328] *Feeney*, 442 US at 272. Other states also interpret their constitutions in a less rigid and formalistic manner than the Supreme Court has interpreted the Fourteenth Amendment. See, for example, *Colo. Civ. Rights Comm'n v Travelers Ins. Co.*, 759 P2d 1358 (Colo 1988) (rejecting the Supreme Court's holding in *Geduldig v Aiello*, 417 US 484 (1974), that discrimination on the basis of pregnancy does not constitute unconstitutional sex discrimination).

[329] Alaska Stat § 14.18.010 et seq (1987 & Supp 1991); Cal Educ Code § 40, 200-20 (West Supp 1991); Fla Stat Ann § 228.2001 (West 1989); Hawaii Rev Stat § 296-61 (1988); Iowa Code Ann § 601A.1 et seq (West 1988 & Supp 1990); 5 Me Rev Stat Ann § 4602 (1989 & Supp 1990); Mass Gen Laws Ann ch 76, § 5 (West 1982); NJ Stat Ann § 18A:36-20 (West 1989); Or Rev Stat § 659.150 (1990); RI Gen Laws § 16-38-1.1 (1988 & Supp 1991); Wash Rev Code Ann § 49.60.030 (West 1990); and Wis Stat Ann § 118.13(1) (West Supp 1991).

[330] See Women's Rights Project of the American Civil Liberties Union, et al, *Equal Educational Opportunities for Pregnant and Parenting Students: Meshing the Rights with the Realities* Appendix B (1990), citing, Colorado: 1990 Colo Rev Stat Ann § 24-34-601; Connecticut: Gen Stat Conn §§ 46a-51 et seq (1989); District of Columbia: DC Code Ann § 1-2520(a) (1981); Idaho: Idaho Code § 67-5901 (1989); Illinois: Ill Ann Stat ch 68 § 1-102 (Smith-Hurd 1989 and Supp 1990); Iowa: Iowa Code Ann § 601.A et seq (West 1988 & Supp 1990); Kentucky: Ky Rev Stat Ann § 344.145 (Baldwin 1986 & Supp 1989); Montana: Mont Code Ann

Some of these laws, and the regulations promulgated pursuant to them, are more explicit and far-reaching than is Title IX.[331] Thus, in Washington, the educational equity regulations specifically warn school districts that compliance with the Title IX alone may not constitute compliance with state regulations which extend beyond Title IX.[332] For example, the counseling and guidance regulations require "reasonable efforts" to encourage students to consider and explore "nontraditional" occupations[333] and mandate training sessions on eliminating sex bias.[334] In the area of physical education, where the use of a particular standard has an adverse effect on the basis of sex, the school district must immediately replace the standard with one that does not have such an effect, even if the standard with an adverse effect has been validated.[335] These requirements all go beyond those mandated by Title IX and its regulations.

Other examples of such laws are found in Oregon and Massachusetts. In Oregon, "discrimination" is explicitly defined in the statute to include "any act that is fair in form but discriminatory in operation."[336] This closely tracks the Supreme Court's formulation of disparate impact discrimination in *Griggs*. In Massachusetts, admissions standards are closely and explicitly regulated.[337] For example, a prerequisite requirement must be "*essential* to success in a given program."[338] And if access mechanisms have limited the opportunities of a class of students to participate in the prerequisite, then the students must be allowed to enter the program without the prerequisite or must be admitted to the prerequisite.[339]

The enforcement mechanisms of the different educational equity laws and civil and human rights statutes vary, but may generally allow for the termination of state funds to a school that is not in compliance,[340]

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§ 49-2-307 (1989); Nebraska: Neb Rev Stat §§ 20-105 et seq (1987); New Mexico: NM Stat Ann §§ 28-1-1 et seq (1987 & Supp 1990); New York: NY Educ Law § 291(2) (McKinney 1988); North Dakota: ND Cent Code §§ 14-02.4-01 et seq (1989); Oklahoma: 25 Okla Stat Ann §§ 1401, 1402 (1987); Virginia: Va Code § 2.1-715.1 (1987 & Supp 1990); and West Virginia: W Va Code §§ 5-11-3(j), 5-11-9(6)(A) (1990).

[331] These examples are illustrative only and are not a comprehensive list of all of the aspects of state law that may be more favorable for a plaintiff than Title IX or the federal constitution.

[332] Wash Admin Code § 392-190-005 (1986).

[333] Id at § 392-190-015. Similarly, California requires guidance counselors to "affirmatively explore" with pupils the possibility of courses leading to nontraditional careers. Cal Educ Code § 40(d) (West Supp 1991). Alaska also encourages nontraditional career counseling and requires regular training in recognizing and overcoming the effects of gender bias. 4 Alaska Admin Code § 06.530(a), (b) (July 1988).

[334] Wash Admin Code § 392-190-020 (1986).

[335] Wash Admin Code § 392-190-050 (1986).

[336] Or Rev Stat § 659.150(1) (1989).

[337] See, for example, 603 Mass Admin Code § 26.02(4), (5) (school admissions); 26.03(1) (course admissions); and 26.04(3) (guidance materials) (1986).

[338] Id at § 26.03(1) (emphasis added).

[339] Id. See also Cal Educ Code § 212.5, 230 (West Supp 1991), which specifically define sexual harassment and prohibit it in all aspects of the educational process.

[340] See, for example, Wash Admin Code § 392-190-080(a) (1986).

the filing of administrative complaints,[341] and private suits for equitable relief or damages.[342]

These state provisions can provide a strong basis for challenges to discriminatory test use.

D. Remedies for Gender-Discriminatory Uses of Educationally Related Tests

Both governmental and private remedies are available to enforce legal prohibitions against gender discrimination in educational testing. Governmental remedies, which come into play under Title IX and certain state statutes, include defunding recipients of federal and/or state financial assistance and administrative or judicial proceedings to enforce the law through compliance actions and injunctive or declaratory relief. Private remedies include injunctions prohibiting or restricting the use of invalid tests, requiring that tests be validated, or mandating that new selection devices or mixes of devices be implemented. Prospective affirmative relief may also be available to eliminate the discriminatory effects of an invalid test use. Finally, attorneys fees are available to prevailing parties and, in certain circumstances, monetary damages may be awarded.

1. Government Enforcement and Remedies

Title IX is enforced publicly, primarily through the Office for Civil Rights (OCR) in the Department of Education,[343] as well as through a private right of action.[344] In the event that the Department of Education finds a violation of Title IX which the recipient fails to correct, it has the statutory authority to defund a recipient of federal financial assistance.[345] The Department of Education has not, to date, invoked the defunding remedy in a Title IX case.[346] Nonetheless, the defunding remedy remains statutorily available and there is no reason to believe that it would never be invoked, especially in the case of an egregious violation which the fund recipient refuses to correct.[347] The Title IX regulations adopt and incorporate the procedural provisions governing the enforcement of Title VI to regulate defunding proceedings.[348]

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[341] See, for example, 603 Mass Admin Code § 26.09 (1986).

[342] See, for example, 603 Mass Admin Code § 26.10 (1986). Many civil and human rights laws also allow for damage actions.

[343] OCR also has responsibility for enforcing, inter alia, Title VI, § 504 of the Rehabilitation Act, and the Age Discrimination Act. In addition to OCR, other federal agencies have the responsibility for enforcing Title IX requirements among their grantees. However, because Title IX is limited to discrimination in education, primary enforcement is through the Department of Education.

[344] See *Cannon*, 441 US 677, 709 (1979).

[345] 20 USC § 1682 (1991) states, "Compliance with any requirement adopted pursuant to this section may be effected (1) by termination of or refusal to grant or to continue to grant or to continue assistance under such program or activity . . . or (2) by any other means authorized by law."

[346] In *Storey v Bd. of Regents of U of Wis. Sys.*, 604 F Supp 1200, 1202 (WD Wis 1985) the court denied the defunding remedy as a cumbersome, costly, and extreme remedy, only to be used as a last resort where no other relief is available.

In addition to the ultimate remedy of defunding, the Department of Education through OCR has access to a number of other mechanisms to enforce Title IX.[349] OCR has the authority, among other things, to conduct compliance reviews and investigate complaints, to make findings of non-compliance with the law, to conciliate claims, and to refer cases to the Department of Justice for judicial enforcement.[350] Further, the Title IX regulations give OCR the specific regulatory authority to require a recipient of federal funding to take "such remedial action as the Assistant Secretary deems necessary to overcome the effects of . . . [gender] discrimination."[351] OCR has relied on these mechanisms to varying degrees.[352]

While OCR has broad authority to act to eradicate sex discrimination in education, serious questions regarding the effectiveness of its enforcement activities have been raised.[353] Moreover, long-standing judicially imposed requirements designed to assure the timely resolution of complaints and compliance reviews have been vacated.[354] In addition, neither OCR nor any other federal entity has issued regulations or guidelines or developed other policy guidance to address the issue of discrimination in educational testing, even though OCR has been presented with testing questions in the course of complaints and compliance reviews, most notably in connection with vocational education programs.[355] As a result, the government lacks any coherent policy or enforcement activities regarding testing discrimination.

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[347] The Department of Education recently cut off the funds of the DeKalb County School District after the school district refused OCR access to investigate complaints about the district's policy for educating disabled students. *Freeman v Cavazos*, 923 F2d 1434, 1435-36 (11th Cir 1991). A challenge by the school district to the Department's action is pending in the Eleventh Circuit. Id at 1436-37. In *Freeman*, the school district's emergency motion for stay of the Department's action was denied. Id at 1441.

[348] 34 CFR § 106.71.

[349] Again, the Title IX regulations incorporate the Title VI procedures. Id.

[350] 34 CFR §§ 100.7, 100.8. Complaints may be filed by third parties in addition to being filed by injured parties. 34 CFR § 100.7(c).

[351] 34 CFR § 106.3(a).

[352] See note 349.

[353] See, for example, Report on Investigation of the Civil Rights Enforcement Activities of the Office for Civil Rights, US Department of Education, Majority Staff of House Committee on Education and Labor, 100th Cong, 2d Sess (Comm Print 1988). This report concluded, "Since 1981, the Office for Civil Rights of the Department of Education has been stymied by an administration which actively opposed the laws which were entrusted to it and took efforts to minimize the agency's potential impact. As a consequence, the OCR has been beset with confused policy directives, administrative mismanagement, numerous changes in leadership, and severe reductions in resources." Id at 6.

[354] *WEAL v Cavazos*, 906 F2d 742 (DC Cir 1990).

[355] The only relevant document produced by OCR in response to a request under the Freedom of Information Act for documents relating to these matters was an OCR memorandum, dated Apr 16, 1982, regarding "Methodology for Analyzing Admissions Programs in Institutions of Higher Education." The memo peripherally addressed issues of validation, but has been withdrawn and designated an "historical document." Antonio J. Califa, *Methodology for Analyzing Admissions Programs in Institutions of Higher Education* (Dept. of Educ., 1982).

A prime example of this lack of coherent policy and enforcement has been OCR's treatment of the ASVAB. In the course of the investigations of several complaints and compliance reviews,[356] OCR determined that secondary schools which administered the ASVAB were using scores that were separately normed by gender. That is, the scores of young women were determined by comparison of their performance only to the performance of other female test-takers, and young men's test scores represented a comparison only to the scores of other male test-takers. Without addressing the underlying validity questions presented in the widespread use of the ASVAB[357] and without exploring the link of the demonstrated score differentials in the ASVAB to the widespread gender segregation in vocational education programs,[358] OCR concentrated exclusively on the separate norming question. Regarding this narrow question, OCR first found that separate norming constituted a violation of Title IX. However, after consultation with the Department of Defense, which publishes and distributes the ASVAB, OCR concluded that, in fact, separate norming was permissible.[359]

An additional concern is raised by OCR's failure to treat the question of the double discrimination faced by minority women. Although OCR has jurisdiction over both Title IX and Title VI, and in spite of the development of a legal analysis regarding this question,[360] it has taken no steps to explore their interplay.

In sum, while federal administrative enforcement is technically available under Title IX, the administrative forum currently appears to offer little likelihood of meaningful practical relief to victims of gender bias in testing.[361]

2. Private Enforcement and Remedies

In addition to governmental enforcement, the federal legal rights outlined above are privately enforceable.[362] Only *Sharif* has directly addressed the question of the appropriate remedy to be granted in a case involving gender-based testing discrimination.[363] However, based on remedies issued in relevant non-testing cases, as well as remedies issued in testing cases brought pursuant to Title VI and Title VII, private litigants who prove discrimination may look to a range of remedies. These remedies principally include injunctions prohibiting or restricting the use of an invalid test or requiring that a test be validated or that a valid selection procedure be developed. In addition, depending on the facts and circumstances, courts may order affirmative relief to eliminate the discriminatory effects of an invalid test use. Monetary relief may be granted when certain criteria are met. Finally, attorneys fees are available to prevailing plaintiffs.

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[356] See Memorandum from Richard D. Komer, Deputy Assistant Secretary for Policy, US Dept. of Educ., to OCR senior staff (Jun 5, 1990) (regarding ASVAB separate norming) (on file with the National Women's Law Center) ("*Komer Memorandum*").

[357] See discussion at notes 91-107 and accompanying text.

[358] See discussion at notes 36-53 and accompanying text.

[359] See *Komer Memorandum* (cited in note 356). In another example, in a compliance review of vocational counseling/testing services that was triggered by disproportionate enrollment patterns at a community college, OCR concluded that although interest inventories were being used and were of little value, there was no violation because the tests were not required for admission. See Letter from Office of the Regional Director, Region VII to Dr. Howard Fryett, President, Flathead Valley Community College 6 (Mar 1, 1988) (on file with the National Women's Law Center).

[360] See discussion at notes 271-87 and accompanying text.

[361] As discussed at notes 329-42 and accompanying text, state administrative remedies also provide a variety of enforcement mechanisms, including defunding. Actual enforcement practices vary by state and should be considered carefully by potential claimants.

a. Injunctions Barring or Restricting the Use of Discriminatory Tests or Requiring Adoption of Valid Selection Procedures

The most straightforward remedy, and the one with the most consistent applicability to the questions under consideration here, is to enjoin the use of test scores which result in discrimination or to impose restrictions on their use in order to eliminate the discrimination. This approach was taken in *Sharif*. Upon finding that New York State's reliance on SAT scores as the sole criterion for awarding scholarships was in violation of Title IX, the court enjoined the further use of the SAT scores in this fashion. Instead, it required that the state use a combination of SAT scores and grade point averages to determine the scholarship winners, reasoning that the SAT scores would compensate for the differences in grading policies of different schools.[364]

The *Sharif* injunction is well grounded in both Title VI and Title VII testing law. For example, in *Larry P.*,[365] which was decided under Title VI, the Ninth Circuit upheld the district court's injunction barring the non-validated use of IQ tests to place children in classes for the educable mentally retarded where the test use resulted in a significant discriminatory impact on the basis of race.[366] Similar examples are common in Title VII cases. In *Guardians*, for example, the court enjoined the further use of an entry level exam for police officers which discriminated impermissibly against minorities, except on an interim basis with adjustments that would avoid the test's disparate impact.[367]

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[362] The Supreme Court has held that Title IX contains an implied right of action without any administrative exhaustion requirement. *Cannon*, 441 US at 709. Further, Fourteenth Amendment rights are privately enforced through the Civil Rights Act, 42 USC § 1983, which also contains no exhaustion requirement, *Patsy v Bd. of Regents of State of Fla.*, 457 US 496 (1982).

[363] 709 F Supp 345.

[364] Id at 363. The district court did not limit the alternatives to SAT scores the state could use in the future, including the development of a valid statewide achievement test. Id at 354-65.

[365] 793 F2d 969.

[366] Id at 984.

In employment cases, courts have also ordered that tests be validated or replaced with valid selection procedures, often in conjunction with the issuance of prohibitory injunctions.[368] A case in point is *Berkman v City of New York*, where the Second Circuit affirmed the district court's order that a new properly validated physical portion of the firefighter selection exam with the least adverse impact on women be prepared to replace the exam held to be invalid.[369] These orders are valuable not only because they eliminate a discriminatory selection practice but also because they assure, through the court's continued jurisdiction, that a valid[370] and nondiscriminatory practice will be instituted in its place.[371]

In addressing the establishment of valid selection procedures, at least one court has recognized that a test may have a different predictive validity for different population groups and that eliminating this differential in the continued use of the test is an appropriate subject for relief.[372] In *Kirkland v New York State Dept. of Correctional Services*[373] the court approved the addition of 250 points to the raw scores of minority test-takers where it was shown that the test had a different predictive value for minority and non-minority test-takers.[374] Because minority test-takers with lower scores performed on the job just as well as non-minority test-takers with higher scores, the point addition served to make the test race-neutral.[375] This approach comports with the holding in *Larry P.* that the test use at issue would have to be validated separately for Black students.[376]

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[367] 630 F2d 79, 109 (2d Cir 1980). See also *Berkman v City of N.Y.*, 705 F2d 584, 586 (2d Cir 1983) ("*Berkman*") (use of eligibility list derived from invalid fire department entrance exam which discriminated against women enjoined except for cases of "compelling necessity"); *Easley v Anheuser-Busch, Inc.*, 758 F2d 251, 273 (8th Cir 1985) (discriminatory test-based hiring practices enjoined); and *Vulcan Pioneers, Inc. v N.J. Dept. of Civ. Service*, 832 F2d 811 (3d Cir 1987) (use of eligibility lists based on invalid exam enjoined).

[368] See, for example, *Guardians*, 630 F2d at 108 ("an appropriate compliance remedy . . . may properly assure the establishment of a lawful new procedure").

[369] *Berkman*, 705 F2d at 588. See also *Firefighters Inst. for Racial Equality v St. Louis*, 616 F2d 350 (8th Cir 1980) (new exam for promoting firefighters to hire captains must be developed unless, on remand, further evidence of current test's validity was shown); and *Morrow v Crisler*, 491 F2d 1053 (5th Cir 1974) (en banc) (tests used in connection with hiring state highway patrol officers must be validated).

[370] Courts have reached different results on the question of how specific they may be in requiring that tests meet particular standards of validity. Compare, for example, *Guardians*, 630 F2d at 110 (district court went too far in requiring that newly developed tests comply with EEOC's Uniform Guidelines and the American Psychological Association Standards) with *Firefighters Inst. for Racial Equality*, 616 F2d at 363 (upheld order that new test must be consistent with EEOC Guidelines).

[371] As the *Guardians* court explained, "[o]nce an exam has been adjudicated to be in violation of Title VII, it is a reasonable remedy to require that any subsequent exam or other selection device receive court approval prior to use." 630 F2d at 109.

[372] See notes 80-85 and accompanying text for discussion of differential validity.

[373] 628 F2d 796 (2d Cir 1980).

[374] Id at 798. The Civil Rights Act of 1991 makes it an unlawful employment practice under Title VII "for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex, or national origin." Civil Rights Act of 1991, 105 Stat at 1075. The floor statement of Senators John C. Danforth, R-Mo and Ted Kennedy, D-Mass, the chief Senate sponsors, explains that "[b]y its terms, the provision applies only to those tests that are 'employment related.' Therefore, this section has no effect in disparate impact suits that raise the issue of whether or not a test is, in fact, employment related. The prohibitions of this section only become appli-

Other cases have considered the revision of scoring methods in order to eliminate discriminatory impact without compromising the validity of the test use. The remedy in *Sharif*, which required a combined use of SAT scores and grades, is a prime example. Most other applications of remedial score adjustments have been in connection with rank-ordering[377] which, as discussed above, has only a limited applicability to education testing. There are implications for adjustments to cutoff scores as well. For example, in *Guardians*, after determining the particular cutoff score to be invalid, the court held that "the City may use a cutoff score somewhat lower" than what it had been using to accomplish the proper interim hiring.[378] However, where an invalid cutoff score is symptomatic of broader problems with the test, courts have structured broader relief.[379]

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cable once a test is determined to be employment related." 137 Cong Rec S15484 (Oct 30, 1991). The same language appears in the statement of Rep Don Edwards, D-Cal, a chief House sponsor, at 137 Cong Rec H9529 (Nov 7, 1991). As such, score adjustments will continue to be permitted under Title VII as a remedy where tests are found to be in violation of the law. Because the limitation is Title VII-specific, it should not affect remedies under Title IX or any other statute.

[375] 628 F2d at 798.

[376] *Larry P.*, 793 F2d at 980 (but note that this analysis contributed to finding of liability rather than formulation of relief).

[377] In *Kirkland v N.Y. State Dept. of Correctional Services*, 711 F2d 1117 (2d Cir 1983), an interim remedy calling for the adjustment of a rank-ordered eligibility list into a tiered zone system, in which all candidates in a particular scoring zone had the same rank, was approved. See also *Reid v State of N.Y.*, 570 F Supp 1003 (SD NY 1983). But see *Berkman v City of N.Y.*, 812 F2d 52 (2d Cir 1987) ("*Berkman IV*"), where the court rejected the lower court's ordered changes to the scoring of a new entry level firefighters physical test which had resulted in only two women scoring in the top 6,500 applicants. The court found that the proposed changes which included collapsing a seven-band scoring system into a three-band system and renorming the test neither added to test validity nor added any women to the eligibility list, id at 60, and served to lessen the differentiating power of the test, id at 61. Moreover, the court rejected the use of a "compensation ratio" for women on the grounds that it was inappropriate affirmative relief. Id at 62. See notes 343-61 and accompanying text for discussion of affirmative remedies.

[378] *Guardians*, 630 F2d at 113.

[379] See, for example, *Ass'n Against Discrimination In Employment, Inc. v City of Bridgeport*, 647 F2d 256 (2d Cir 1981), aff'd, 710 F2d 69 (2d Cir 1983). The Second Circuit approved the district court's finding that the lowering of an invalid cutoff score was not enough to cure an otherwise invalid test use. Instead, the court ordered the city to prepare a list of minority persons to be offered positions as firefighters and to actively recruit minority firefighters. See also *Burney v Pawtuckett*, 559 F Supp 1089, 1104-05 (D RI 1983) (court directed the city to prepare new physical screening procedures and to delete graduation requirement which incorporated previous physical test, after holding the cutoff scores and the physical test invalid); and *San Francisco Police Officers Ass'n v San Francisco*, 812 F2d 1125 (9th Cir 1987), vacated as moot, 842 F2d 1126, 1132 (9th Cir 1988), rev'd, 869 F2d 1182 (9th Cir 1988) (Ninth Circuit struck down a revision of the cutoff and weighing procedures for a police department promotions exam to improve minority scores on the grounds that the procedures unnecessarily trammeled the rights of non-minorities; court held that a less burdensome alternative,

Injunctive remedies of the types described have a broad applicability to the gender-discriminatory use of test scores in educational settings. As in *Sharif* and *Larry P.*, the continued use of tests which result in a disparate impact on the basis of gender and have not been shown to be valid for the use at issue should not be tolerated. The test use must either cease or be revised so that it is no longer discriminatory. For example, if it is proven that the ASVAB does not validly predict success in or aptitude for vocational education programs or careers, an injunction prohibiting its use in selection for these programs is fully appropriate. Similarly, a use of the SAT which is not supported by validity evidence and which has a disparate impact on the basis of gender should be enjoined.

Orders requiring the substitution of valid selection methods, including both tests and other selection devices for those which are determined to be discriminatory, also have a direct application. Just as in employment cases, the continued jurisdiction of the court will assure that nondiscriminatory test uses are implemented in an effective and lawful fashion.

Remedies designed to cure demonstrated discrimination by modifying the weighting or scoring of a test, such as the relief granted in *Sharif* where the state was ordered to combine grade point averages with test scores, or in *Kirkland* where points were added to the scores of minority test-takers to eliminate racial bias, also provide relevant models. The *Kirkland* framework, in particular, has interesting ramifications for education-related tests which predict differently by gender, such as the SAT. If such differential prediction is proven in the context of a discrimination case, an invalid use of the SAT or other test could be remedied by adjusting the scores of female and male test-takers so that they bear the same predictive relationship to the criterion at issue. This purpose would most likely be accomplished simply by adjusting upward the scores of female test-takers so they achieved the same correlation as the male scores.

b. Remedies Addressing the Continuing Effects of Past Discrimination

In addition to enjoining the use of discriminatory tests and requiring the development of valid selection devices, courts have also addressed the question of structuring relief to remedy the effects of past discrimination in testing.[380] For example, in *Larry P.*, the Ninth Circuit affirmed the

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such as the development of a new selection procedure, was available, and therefore ordered the city to devise a new selection procedure).

[380] As Justice Brennan wrote in the plurality decision in *Local 28 of Sheet Metal Workers' Int'l Ass'n v EEOC*, 478 US 421, 445 (1986), Title VII does not "prohibit a court from ordering, in appropriate circumstances, affirmative race-conscious relief as a remedy for past discrimination. Specifically, we hold that such relief may be appropriate where an employer or a labor

district court's order enjoining the use of IQ tests which were not valid for this use, ordering the re-evaluation of every current Black educable mentally retarded (EMR) student, requiring that every school district with a racially disproportionate EMR program devise a three-year remedial plan, and ordering school districts to bring to the court's attention any disparities which persisted at the end of this period.[381] As another example, in a case dealing with long-standing discriminatory testing which excluded many women who sought to become firefighters, New York City was required to reserve entry-level firefighter positions for up to 45 qualified female firefighters.[382] Similarly, in the face of a history of racial discrimination, the city of St. Louis was ordered to promote eight qualified Black firefighters to the position of captain pending the development of a valid promotion exam.[383] Generally, affirmative remedies in Title VII testing cases have been limited to the time period between the finding that a test or other selection procedure is invalid and the institution of a valid procedure,[384] although longer-term remedies have also been imposed.[385]

Because the availability of affirmative relief is fact-specific, it is difficult to predict where such relief may come into play in gender bias in educational testing cases. However, where a discriminatory test use is long-standing and/or has inflicted a serious injury on female test-takers, such relief should be seriously considered. The nature of the relief could include the *Larry P.* model of devising remedial plans to eliminate the effects of the bias. It could also include, for example, requirements that, at least over the short term, a certain number of spaces in a particular college or other program or a certain number of scholarships in a competitive scholarship program should be reserved for qualified females.

c. Voluntary Remedies

Courts have also been called upon to consider voluntary plans and

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union has engaged in persistent or egregious discrimination, or where necessary to dissipate the lingering effects of pervasive discrimination." This principle is equally applicable to cases of gender discrimination and in discrimination claims modeled on Title VII analysis.

[381] *Larry P.*, 793 F2d at 984.

[382] *Berkman*, 705 F2d at 588-89, 594-97.

[383] *Firefighters Inst. for Racial Equality v St. Louis*, 616 F2d at 362-63. See also *Ass'n Against Discrimination in Employment, Inc. v Bridgeport*, 647 F2d 256 (2d Cir 1981) (defendant city of Bridgeport ordered to compile a list of minority candidates for city fire department to whom offers of employment were required to be made).

[384] For example, in *Guardians* the Second Circuit struck down a long-term goal that minority hiring be comparable to the minority proportion of the relevant labor force. 630 F2d at 113. Further, in *Berkman IV* the Second Circuit rejected the district court's remedy affording women on a fire department's eligibility list an opportunity to be hired ahead of equally ranked males to compensate for past discrimination. 812 F2d at 61-62.

[385] See, for example, *EEOC v Local 638*, 565 F2d 31, 34 (2d Cir 1977) (upholding an order which replaced the examining board that administered a discriminatory test to assure a more impartial composition, and which imposed an examination bypass mechanism).

actions undertaken by test-users to remedy discrimination. Although Title IX regulations permit federal funding recipients to undertake such affirmative action,[386] there is no case law interpreting the scope of the section. By analogy to Title VII, voluntary plans may be permissible where they meet certain criteria[387] even where a court may not, itself, have authority to issue such relief.[388]

Nonetheless, the United States Supreme Court has made it clear that test-users cannot remedy a non-valid test use which has a discriminatory impact simply by resort to a non-discriminatory "bottom line." *Connecticut v Teal*[389] concerned a promotion eligibility test for the position of Connecticut state welfare eligibility supervisor. The test was invalid and had an adverse effect on Blacks.[390] However, in making promotions from the eligibility lists generated by the exams, the state promoted a greater percentage of eligible Black candidates than white candidates; it argued that this "affirmative action program" should be a complete defense to the suit.[391]

The Court rejected this argument, holding that the discrimination against the minority members who were denied the opportunity to advance based on the invalid test scores could not be justified on the basis that other minority applicants received favorable treatment. The Court emphasized that there must be equal opportunity for *each* applicant:

> Title VII does not permit the victim of a facially discriminatory policy to be told that he has not been wronged because other persons of his or her race or sex were hired. That answer is no more satisfactory when it is given to victims of a policy that is facially neutral but practically discriminatory.[392]

Accordingly, *Teal* makes it clear that a user of a discriminatory test must address the test itself and assure that it is valid for the use or uses to which it is being put. A manipulation of the test-generated selection list, even if voluntarily undertaken and achieving an equitable "bottom line," will not defeat a finding of discrimination.

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[386] 34 CFR § 106.3(b).

[387] For examples of criteria which plans may have to meet, see *United Steelworkers of America v Weber*, 443 US 193, 208 (1979). In upholding an affirmative action plan the Court emphasized that the plan: was designed to break down old patterns of racial segregation and hierarchy; did not "unnecessarily trammel the interests of the white employees"; did not "create an absolute bar to the advancement of white employees," since half of those to be trained were white; and was designed to eliminate a manifest racial imbalance, not to maintain racial balance. Id. See also *Johnson v Transportation Agency, Santa Clara County, Cal.*, 480 US 616, 637-40 (1987) (affirmative action plan in which ethnicity and sex were taken into account in decisions on hiring and promotion upheld where plan addressed an under-representation of women in a traditionally segregated field, and did not unnecessarily trammel the rights of nonminorities or create an absolute bar to advancement of nonminorities since no specific positions were set aside for women and minorities and no numerical requirements for hiring were imposed by the plan).

[388] *Local No. 93 v City of Cleveland*, 478 US 501, 522-23 (1986) (voluntary plans, at least in the form of consent decrees, may be evaluated under looser standards than those which Title VII requires for court-ordered plans).

[389] 457 US 440 (1982).

[390] Id at 445.

[391] Id.

[392] Id at 455.

In the context of education-related tests, this principle means that, for example, a scholarship-granting organization which relies on a non-valid test use with a discriminatory impact cannot defend against a claim of discrimination by awarding at the "bottom line" the same number of scholarships to males and females. Thus, if the SAT is not valid for determining math ability in young adolescents, a Johns Hopkins or similar program for academically talented youth could not compensate for that problem by manipulating admissions rates. However, *Teal* should not cause problems for a voluntary remedy following the *Kirkland* model in cases where a test has a differential predictive validity by gender. Since a gender-based score adjustment would actually enhance validity, it is readily distinguishable from the practice prohibited in *Teal*.

d. Monetary Damages

It is well established that monetary damages are available under 42 USC § 1983, the statutory cause of action under which equal protection claims are typically brought.[393] Moreover, in *Franklin v Gwinnett County Public Schools*,[394] the Supreme Court recently held that monetary damages are available for intentional violations of Title IX. Resolving a split in the Circuits,[395] the Court explained that "absent clear direction to the contrary by Congress, the federal courts have the power to award any appropriate relief in a cognizable cause of action brought pursuant to a federal statute."[396] Because Congress had in no way limited the relief available pursuant to Title IX's private right of action and, in fact, had reinforced its view that Title IX should be read broadly through the passage of the Civil Rights Restoration Act[397] and the Civil Rights Remedies Equalization Act,[398] the Court concluded that damages are available where the statute is intentionally violated. Although *Franklin* addressed compensatory damages, the Court's reasoning extends equally to the availability of punitive damages.[399]

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[393] See, for example, *Carey v Piphus*, 435 US 247, 254-57 (1978).

[394] 60 USLW 4167 (1992).

[395] The Eleventh Circuit had held that damages were not available under Title IX, *Franklin v Gwinnett County Public Schools*, 911 F2d 617 (11th Cir 1990), while the Third Circuit had found that damages were available under Title IX. *Pfeiffer v Marion Center Area School Dist.*, 917 F2d 779 (3rd Cir 1990).

[396] 60 USLW at 4171.

[397] Pub L 100-259, 102 Stat 28 (1988), codified at 20 USC § 1687.

[398] Pub L 99-506, 100 Stat 1845 (1986), codified at 42 USC § 2000d-7.

[399] Although *Franklin* was a Title IX case, the analysis should apply equally to claims brought under Title VI of the Civil Rights Act of 1964 and § 504 of the Rehabilitation Act because the three statutes are interpreted in the same fashion. See notes 151-54 and accompanying text.

e. Attorneys Fees

Finally, attorneys fees are available under the Civil Rights Attorneys Fees Awards Act to plaintiffs prevailing under either a 42 USC § 1983-based equal protection claim or a Title IX claim.[400]

In sum, a broad range of remedies is available where the gender-discriminatory use of standardized tests in education is established. A number of government agencies, including the Department of Education's Office for Civil Rights, have the power to defund recipients which discriminate in violation of relevant statutes. Moreover, some agencies, including OCR, have a wide variety of other enforcement mechanisms at their disposal. Private litigants may seek injunctive relief and, in certain cases, affirmative relief to redress the effects of past discrimination may be available. Attorneys fees are available to prevailing plaintiffs in federal litigation. Finally, damages may be awarded pursuant to 42 USC § 1983 and Title IX.

IV. CONCLUSIONS

The examination of the empirical literature on gender bias in standardized testing demonstrates that a wide range of standardized tests reflect gender differentials in scoring. These differentials work to the concrete disadvantage of females in general, and females of color in particular. Many of these differentials are neither fully understood nor explained in the literature. Further, serious validity and fairness concerns are raised in connection with many uses of standardized test scores in education. An analysis of the applicable federal and state constitutional and statutory provisions demonstrates that the current practice which condones the broad use of standardized test scores that reflect gender differentials on only the slightest, if any, evidence of validity and fairness, leaves many education test-users at legal risk.

First, Title IX prohibits a broad range of discriminatory uses of standardized test scores in education. Moreover, it applies to test uses which, although neutral on their face, adversely affect girls and women. Such disparate impact discrimination is at least subject to the same standards which governed employment discrimination under the Title VII analysis of *Griggs v Duke Power Co.* and continue to govern under the EEOC Uniform Guidelines for Employee Selection. Moreover, there is a well-based argument that discrimination in education should be subject to more stringent standards than those developed in the employment context.

Under Title IX, once a showing of disparate impact is made, the education test-user must show that the test use at issue is justified by educational necessity. Educational necessity includes a showing that the test use is valid, as well as that the criterion or criteria which have been invoked are important to the selection at issue. In addition, test uses must be fair; that is, their predictive value must not be affected by the gender or race of the test-taker. Even if educational necessity is demonstrated, a challenger to a test use may still prevail by showing that a less discriminatory alternative is available to achieve the same goal.

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[400] 42 USC § 1988 (1991).

Second, there is promising support for the proposition that girls and women of color who are victims of discrimination based on both their race and sex may bring claims based on a theory of race *and* sex discrimination. Combining these claims, either through a joint Title IX and Title VI claim or a statutory or constitutional claim based on a "sex-plus" or "race-plus" theory, has a developing foundation in discrimination law. Such an approach assures that the full and unique nature of the discrimination suffered by women of color is appropriately recognized by the courts.

Third, pursuant to federal constitutional analysis, a test use which is facially or otherwise intentionally discriminatory is subject to a heightened scrutiny analysis. In other circumstances the rational basis test will apply. Rational basis analysis will provide a meaningful standard in many testing discrimination cases since so many test uses are unsupported by validity evidence. As the court concluded in *Sharif*, where a test which has never been validated for a particular use results in a discriminatory impact, it will be extremely difficult to demonstrate a rational basis for that test use.

Fourth, a number of state constitutional and statutory provisions prohibit gender-discriminatory uses of standardized tests. Some state constitutional provisions afford stronger protections to discrimination victims than appear in federal constitutional analysis.

Fifth, a full range of both government and private remedies are available to victims of testing discrimination. Government remedies include defunding as well as conciliation and enforcement processes. Private remedies extend to injunctive relief, affirmative relief to address the effects of past discrimination in appropriate cases, and attorneys fees. Finally, damages may be awarded pursuant to 42 USC § 1983 and Title IX.

Standardized testing currently plays a major role throughout our system of education. Moreover, there are significant pressures to expand that role. Many important and profound concerns are raised regarding the proper role of testing in education. One major concern is raised by the fact that many standardized test uses discriminate on the basis of gender and the combined bases of gender and race, resulting in very concrete losses to women and girls. Such continued reliance on these tests should be untenable as a matter of educational policy. It is untenable as a matter of law.

Chairman **Kildee**. Again, thank you very, very much. I think we have all been enriched by this. Hopefully, this will be the beginning of a process, now, that will make sure that our government and its institutions respect the human dignity of all its citizens. I think this has been a very important day in doing that.

Thank you very much. We stand adjourned.

[Whereupon, at 11.45 a.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Additional material submitted for the record follows:]

STATEMENT OF HON. JOLENE UNSOELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Chairman Kildee, I would like to thank you for holding a hearing today on this critical topic. I am very pleased to be playing a part in this gender equity bill, and I would like to offer my enthusiastic support for the entire package. It is time for this Congress to consider how we can address the educational needs of our female students, both young and old.

The section of the package that I am introducing today, along with Mrs. Slaughter, focuses on the devastating problem of high school dropout among pregnant and parenting teenagers. In my home State of Washington, pregnancy becomes a fact of life for one out of every 13 teenagers. These young women are at great risk of dropping out of school. In fact, nationwide, one out of every five high school dropouts is a pregnant teen or teen mother. Our bill will expand existing programs within the Elementary and Secondary Education Act to help local school districts implement programs to assist these young women.

Again, I want you all to know how pleased I am that this hearing is taking place, and I look forward to hearing your testimony.

Statement of Girls Incorporated
Gender Equity in Education Act 1993

Girls Incorporated (formerly Girls Clubs of America) is a national youth organization that has been providing direct service to school-age girls in communities throughout our country for almost fifty years. The first clubs, however, began serving girls during the Industrial Revolution. Our experience with girls has provided us with dramatic, first-hand knowledge of the effects of gender discrimination and the various forms it can take. As a leading and vigorous advocate for girls, Girls Incorporated stresses the urgency of addressing girls' special needs. In our 1974 annual report, "Toward Equality for Girls," we wrote:

> In our current society, co-ed is not co-equal. Girls are accepted but remain second class citizens . . . . They are clearly unequal in the attention given to their development toward equality and new, more challenging adult roles.

Our 1978 national seminar, "Today's Girls: Tomorrow's Women," further focused on equity issues in areas critical to girls' healthy development and reconfirmed our early commitment to addressing these issues.

Girls continue to grow up in an inequitable world where subtle and blatant gender discrimination stereotypes them and limits their opportunities, experiences and accomplishments. However, the introduction of the Gender Equity in Education Act of 1993 offers great promise for change. Mr. Chairman, we thank you for taking girls seriously and taking seriously the responsibility of the federal government to recognize the current inequities and work toward rectifying them.

We also greatly appreciate the commitment of the many Congresswomen who have joined in sponsoring the individual pieces of legislation that together make up the Gender Equity in Education Act and the commitment of the Members of Congress of both genders who will work to pass it. As members of the Task Force of the National Coalition of Women and Girls in Education, Girls Incorporated has helped fashion some of the ideas. We are grateful for the leadership roles that the American Association of University Women and the National Women's Law Center have played in this work.

At our National Resource Center we conduct research and collect information to develop the programs, resources, settings and principles that best enable girls to overcome discrimination and other barriers to gender equity. Based on this expertise and the expertise developed through our experience of direct service, programming and advocacy for girls, we are submitting this testimony for the record, both to support passage of the Act and to bring several specific points to your attention.

1. **Office of Women's Equity**: The establishment of this office to promote and coordinate the Department of Education's policies, activities and programs to achieve gender equity is essential. A legislatively-required office will provide a much-needed locus of commitment, responsibility and action for addressing pervasive inequities for girls. As stated in our recent publication ***Past the Pink and Blue Predicament***, which Congresswoman Mink made available to the Committee, girls experience inequities, discrimination and pressures that start during infancy and limit their potential now and as adults. Therefore, it is crucial that the office be charged to consider equity issues for girls during their earliest involvement with educational opportunities as well as equity issues for women engaged in lifelong

learning. At Girls Incorporated, we know successful interventions to enable girls to overcome inequities begin with commitment to change, an understanding of the research on the issues and careful planning of deliberate steps that will make a difference in girls' lives and the world in which girls live. The Office of Women's Equity would be a noteworthy start to making a real difference on both levels.

2. **Inclusion of informal education in initiatives and programs**: In addition to the formal education system, a significant amount of education takes place in the "community" -- in museums, churches, community-based organizations and other arenas. Between 60 and 80 percent of young adolescents participate in at least one nonschool activity sponsored by public or nonprofit agencies (Carnegie, 1992). Furthermore, almost 40 percent of adolescents' waking hours are discretionary compared to the 30 percent they spend in school (Carnegie, 1992). Consequently, the informal education that takes place in non-school settings can provide a powerful forum for challenging the barriers, discrimination, attitudes and perceptions that lead to gender inequity.

We strongly recommend the inclusion of community-based organizations for initiatives and funding under the Gender Equity in Education Act so that gender equity can be achieved in all educational realms for girls and women. We commend this inclusion in Gender Equity in Math and Science and the Women's Educational Equity Act.

3. **Gender equity and positive environments for girls:** Clearly, many youth organizations and educators are recognizing that girls have special strengths and needs requiring special attention. However, without specific training and consistent monitoring,

adults who are not consciously avoiding sex-stereotyped behavior are probably delivering cues that perpetuate sex stereotypes and inequities. We have found that many professionals need training to increase their awareness of gender inequities and to develop environments that are positive for girls. A positive environment for girls addresses their special needs, overcomes biases and enables girls to achieve full equity.

At Girls Incorporated we consider positive environments for girls to be a fundamental aspect of any program serving girls. The increasing number of requests we have received for presentations, training and consultation underscores the unique qualifications of Girls Incorporated to assist our partners in youth work, including schools, with their efforts to develop positive environments and address gender equity. During the past year, we made a number of presentations and provided substantial training in these areas, including work with Girl Scouts of the USA, Big Brothers/Big Sisters of America, a conference on issues of equity at Mills College and the ongoing work we do with our affiliates. We recently completed a training of New York City school guidance counselors and other professionals who work with the city school system on sexuality education and pregnancy prevention, focusing on gender equity issues.

Operation SMART, our own research-based program for gender equity in math and science mentioned in other testimony at the hearing, was initiated with funds from the current Women's Educational Equity Act program and is now having national impact in schools, community-based organizations, camps, museums and other organizations. We and our affiliates have provided Operation SMART training to youth workers, teachers and other professionals, a significant part of which addressed gender equity issues in math and science programming. We welcome the opportunities that the Teacher Equity Training section of this legislation and the Women's Educational Equity Act can provide for Girls Incorporated and colleagues with expertise in gender equity to help schools and organizations and agencies that provide informal education better understand and move forward in this and other areas.

4. **Existing expertise**: Youth-serving organizations have expertise to share. In particular, Girls Incorporated has made gender equity a primary goal for our ongoing work in programming, direct services and advocacy for girls. Programs such as Operation SMART, Friendly PEERsuasion and Sporting Chance help meet girls' special needs by compensating for the barriers to equity that girls confront.

All Girls Incorporated programming is based on research about what girls need and what is effective in meeting those needs. For example, it is widely recognized in the growing literature on girls and women in math and science that changing girls' attitudes and perceptions about these two fields requires a supportive environment that encourages and facilitates risk-taking and exploration by girls. Change also requires adults who believe girls can and should excel in math and science. Operation SMART encompasses these and other principles critical to achieving gender equity.

Initially developed for informal education settings, our programs are readily adaptable to after-school settings and in-school use; a number of our affiliates provide these programs during regular school hours. Federal assistance will help such known and proven programs reach more schools, more organizations and more girls.

5. **Dropout Prevention**: Subsequent pregnancy is a major cause of school dropout among pregnant and parenting teens. The results of our research on our program to prevent adolescent pregnancy were reported in ***Truth, Trust and Technology***. The report was released here in Washington at a seminar keynoted by Congresswoman Patricia Schroeder in September 1991 and the program continues to gather commendations from communities around the country. Rigorous evaluation demonstrated that consistent participants in programs for younger girls were half as likely to have sexual intercourse for the first time as nonparticipants; and participants in programs for older girls were less likely to become pregnant than nonparticipants. The primary components of Preventing Adolescent Pregnancy help girls ages 9-18 clarify values with parents, learn assertiveness and resistance skills, develop aspirations for education and a career and, for sexually active girls, learn about and obtain contraceptive technology. We believe this could be the basis of an effective program for helping teen parents avoid second pregnancies, a priority consideration in Dropout Prevention for Pregnant and Parenting Teens sponsored by Congresswomen Unsoeld and Slaughter.

6. **Equity in athletics**: We applaud Congresswoman Collins' initiative to seek better information regarding collegiate efforts to achieve gender equity in athletics and sports. It is during the childhood years that girls need to learn sports skills and an appreciation for competitive sports that will enable them as women to participate effectively in sports at the college level and beyond. Therefore, Girls Incorporated recommends that attention and resources be devoted as well to gender equity in sports at the primary and secondary school levels. The Girls Incorporated Sporting Chance program for girls ages 6 to 18 is an

excellent model for building basic sports skills and increasing girls' experience in competitive sports.

7. **Data Collection**: Finally, we want to comment explicitly on the importance of the inclusion of sex as a background characteristic in education data. We established our National Resource Center in Indianapolis in 1981 in specific response to the startling lack of information about girls. There is still a problem that many organizations and agencies do not collect, analyze and report data by sex. We have raised this issue in many legislative contexts over the past two decades and wrestled with it as the nation's leading source of information about girls. We commend Congresswoman Woolsey for pinpointing the need to collect, analyze and cross-tabulate by sex, race, ethnicity and socioeconomic status whenever feasible. This additional information is essential to monitoring progress in closing the gap in opportunities, treatment, experiences and outcomes for girls and women. More knowledge about the effectiveness of programs can lead to more efficient use of tax dollars.

Again, we thank you for recognizing the need for action on the front of gender equity. We would be happy to supply additional copies of ***Past the Pink and Blue Predicament*** or any other materials that would be helpful in your deliberations.

Reference

Task Force on Youth Development and Community Programs. (1992). *A Matter of Time: Risk and Opportunity in the Nonschool Hours*. Carnegie Council on Adolescent Development, Carnegie Corporation of New York.

OVERSIGHT HEARING ON H.R. 6: ESEA PROGRAMS SERVING NATIVE AMERICANS, ALASKAN NATIVES, AND NATIVE HAWAIIANS

TUESDAY, APRIL 27, 1993

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., Room 2175 Rayburn House Office Building, Hon. Dale Kildee, Chairman, presiding.

Members present: Representatives Kildee, Roemer, Mink, Green, Woolsey, English, Strickland, Payne, Goodling, Gunderson, and McKeon.

Staff present: Susan Wilhem, staff director; Tom Kelley, legislative associate; Alan Lovesee, associate counsel; Keely Varvel, legislative aide; Jennifer Savage, legislative aide; Lynn Selmser, professional staff member; and Jane Baird, minority education counsel.

Chairman Kildee. The Subcommittee on Elementary, Secondary, and Vocational Education convenes this morning to discuss issues related to the education of Native Americans and Hawaiian natives. This is our tenth hearing in a series on the reauthorization of the Elementary and Secondary Education Act.

One of our goals in the reauthorization is to improve education for all children in this country and, in so doing, it is important that we examine the need to improve the educational opportunities for these unique populations. I say unique because we have a special obligation particularly to our Native Americans that are based in morality, the law, and in treaties.

One can go down to the National Archives of the United States and read the treaties which the United States of America signed with sovereign countries, with France and with Italy, or Germany, with the new Soviet Union, the new Russia, and with our Indian tribes. Those treaties are the law of the land.

When we signed those treaties with the Indian tribes they were sovereign-to-sovereign treaties and they are still sovereign-to-sovereign treaties. When the United States took millions of acres of land from the Indian nations, they promised one thing in return, and that was education. You see that repeated time and time and time again in those treaties.

So I think we have an obligation to the American Indian. We have certain obligations of laws passed here in this Congress with the Native Hawaiians and to the Native Alaskan.

And I, Chair of this committee, am trying to make sure that we carry out our moral, legal and treaty obligations to these American citizens whom we deal with, in most part. Most of these people as truly sovereign. I look forward to working with all of you in making sure that we do carry out those responsibilities.

Many years ago Carl Perkins asked me to take certain responsibility for Indian education in this country. I used to visit a lot of BIA schools out in the west and very often the BIA would know which schools I was going to and before I got there they would be there repairing the schools and getting them in good shape, replacing the windows, putting in new shower heads.

Eventually, I started getting calls from principals of BIA schools saying, "Congressman Kildee, would you please come out to our place because the BIA will fix up our place before you get here?"

In those days I would see some BIA schools that a judge in my district would not allow us to keep prisoners in. That was wrong and I have tried to remedy that and I want to start visiting again to make sure that we discharge our moral, legal, and treaty obligations.

Mr. Goodling, my good friend, friend of education whose district I am going to be visiting I think on Friday. Right?

Mr. GOODLING. And whose district I am going to be visiting Saturday morning as my Chairman, unannounced.

Well, the champion, of course, in education in relationship to Native Americans is my Chairman and we are very proud of his efforts on their behalf. I am very close to the situation in a different way in that my brother in the Department of Agriculture has some major responsibilities as far as Native Americans are concerned.

I am looking forward to your testimony. As the Chairman says, the important thing is that all Americans receive a quality education and, hopefully, that will be the emphasis of the 1990s: quality rather than access.

Chairman KILDEE. Patsy, do you have an opening statement you would like to make?

Mrs. MINK. Thank you very much. I appreciate this opportunity to welcome, in particular, Mr. Thompson from Hawaii who has been such a leader and an inspiration to all of us in his quest for justice and equity for the Native Hawaiians.

I am pleased that we are having this oversight hearing on education programs for Native Americans as part of our deliberations on the Elementary and Secondary Education Act.

The hearing today is particularly crucial for us in Hawaii for the concept of equity and justice, Mr. Chairman, and I say that with all sincerity because what has been presented to the Congress by the new administration is a travesty because it does not recognize the status of Native Hawaiians as Native Americans.

That concept was placed before the Congress many decades ago and accepted as a part of the American responsibility and, therefore, the administration's failure to recognize that and to insist, as the previous administration did, that funding for Native American

Native Hawaiian children in Hawaii could be subsumed under the general categories of funding for elementary and secondary education simply was not an accurate reflection of the responsibility of the United States Government.

And so I am pleased to participate in this hearing and, Mr. Chairman, I would ask that my entire statement be placed in the record at this point.

[The prepared statement of Hon. Patsy Mink follows:]

Statement of Hon. Patsy T. Mink, a Representative in Congress from the State of Hawaii

Mr. Chairman, I am pleased that you have convened this hearing on education programs for Native Americans as part of the overall series of hearings on the reauthorization of the Elementary and Secondary Education Act.

I am especially pleased to welcome Mr. Myron Thompson from the State of Hawaii who is here today to testify on the Native Hawaiian Education Act which is Title IV of the Elementary and Secondary Education Act.

Myron Thompson is a Trustee of the Bishop Estate and the Kamehameha Schools, an institution which was created in the will of Princess Bernice Pauahi Bishop for the educational benefit of the Native Hawaiian people. Myron Thompson is a long time advocate for educational investment and improvement in the Hawaiian community; I look forward to his testimony.

I should also mention that Mr. Thompson recently participated in the Native Hawaiian Education Summit, a 2-day meeting convened by the U.S. Senate Select Committee on Indian Affairs. The Summit brought together members of the Native Hawaiian Community as well as education, government and community leaders within our State to reassess the education status of Native Hawaiians and develop recommendations for the reauthorization of the Native Hawaiian Education Act.

The recommendations which result from the Summit will be compiled into a written report. I look forward to presenting this subcommittee with the Native Hawaiian Education Summit Report and the recommendations set forth by this comprehensive effort to address the educational needs of the Native Hawaiian people.

Mr. Chairman, this hearing today and the other ongoing efforts in regard to Native Hawaiian education are crucial to the future of the Native Hawaiian Education Act, not only in terms of determining improvements that can be made during the reauthorization process, but also in renewing the Congress' commitment to providing Federal resources for the future betterment of the Native Hawaiian people.

Since this committee first passed the Native Hawaiian Education Act in the 1988 amendments to the Elementary and Secondary Education Act, this program has been a constant target for elimination. In the past the opposition has come from hostile administrations, which denied the existence of a trust relationship between the Federal Government and the Native Hawaiian people. And therefore denied the necessity for Federal programs to address the educational needs within the Hawaiian community.

Mr. Chairman, I was frankly shocked and greatly disappointed to find out earlier this month that the current administration has followed the steps of its predecessor by eliminating funds for the Native Hawaiian Education Act in its fiscal year 1994 budget request.

The Department of Education asserts that the Native Hawaiian population can be adequately served by other programs within the Department. This contention clearly demonstrates a lack of understanding within the Department of Education about the current conditions of Native Hawaiian education, and represents an evasion of the Federal Government's moral and legal responsibility to compensate for the social, economic and cultural injustices committed against the original inhabitants of the Hawaiian Islands.

The educational difficulties experienced by Native Hawaiians are the result of interrelated health, social and economic problems caused by discrimination, exploitation, and repression imposed upon this community since its domination by the U.S. in 1893. Separated from their land and culture Native Hawaiians suffer today from severe health problems, high unemployment, high poverty, and low educational attainment.

Native Hawaiian children enter kindergarten with lower vocabulary scores than other children. In achievement tests, Native Hawaiian students continue to perform below national norms and other ethnic groups in Hawaii. Native Hawaiian students also enroll in and complete higher education at rates below their peers. Native Hawaiian students rank first among the major ethnic groups in terms of alcohol and drug abuse in the State. Native Hawaiian adults have low literacy rates; 30 percent are at the lowest level, compared with 19 percent of adults in the State as a whole.

While we are not proud to recant these dismal statistics, they serve to demonstrate the inability of the traditional school system to provide adequate education within the Native Hawaiian community, and the desperate need for the continued Federal, State, and community partnership that has been forged through the Native Hawaiian Education Act.

The passage of the Native Hawaiian Act in 1988 is part of a long series of initiatives by the Congress to recognize the U.S. Government's responsibility in assisting in the rehabilitation of the Native Hawaiian people.

As early as 1920 the Congress passed the Hawaiian Homes Commission Act which set aside certain lands in Hawaii solely for use by Native Hawaiians. It was hoped that in providing these lands the Native Hawaiian people would regain their self-sufficiency, initiative and preservation of their native culture.

In more recent years, the Congress has recognized Native Hawaiians as Native Americans, and therefore eligible for special Federal assistance designed to improve the status of the indigenous populations of this country. In fact, it was as a member of this committee in 1974, that I included an amendment to the Native American Programs Act which first allowed Native Hawaiians to participate in the programs designated for Native Americans.

Since that time on at least 36 occasions the Congress passed Federal laws that include Native Hawaiians in programs or services that are designed to service Native Americans. In addition the Congress has consistently supported programs specifically designated for Native Hawaiians, including the Native Hawaiian Health Care Act, housing set-asides for Native Hawaiians and the Native Hawaiian Education Act.

I have today a letter signed by all four members of the Hawaii delegation, urging the Secretary of Education to reverse the Department's position on the funding of the Native Hawaiian Education Act.

It is my hope that as we seek to reauthorize this legislation this year we will have the support of this subcommittee, the Congress and the administration. I thank the Chair for his support for this program and I look forward to working together on the reauthorization of the Native Hawaiian Education Act.

Future generations of Native Hawaiian children depend upon our ability today to address their dire need for education services.

Mr. KILDEE. Well, I certainly appreciate that. At the time you returned to the Congress you returned as one of my heroes. I was still in the State legislature. You constantly reminded me of our responsibilities for the Native Hawaiians and I certainly appreciate that very much.

Mrs. MINK. Mr. Chairman, I do have a special request, and that is to insert also in the record a letter that the entire Hawaii delegation, the two senators and Mr. Abercrombie and myself, have just sent to Secretary Riley expressing our deep disappointment at the omission of the new administration in recognizing the responsibility to fund the Native Hawaiian Education Act.

Thank you very much.

[The above-referenced material follows:]

Congress of the United States
House of Representatives
Washington, DC 20515

April 26, 1993

The Honorable Richard W. Riley
Secretary of Education
U.S. Dept. of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Riley:

We write to express our deep disappointment that the Department of Education eliminated funding for the Native Hawaiian Education Act in its FY 1994 budget request.

For over 18 years the Congress has recognized Native Hawaiians as Native Americans, and therefore eligible for special federal assistance designed to improve the status of the indigenous populations of this country. On 36 occasions the Congress passed federal laws that include Native Hawaiians in programs or services that are designed to service Native American communities.

In seeking to improve the educational status of Native Hawaiians the Congress recognized the unique situation of this population and sought to develop programs which would best address their specific needs.

The Native Hawaiian Education Act of 1988 assures essential services and resources to address specific educational needs of the Native Hawaiian community. We do not agree with the Department of Education's assertion that the Native Hawaiian population can be adequately served by other programs within the Department.

The educational difficulties experienced by Native Hawaiians are the result of interrelated health, social and economic problems caused by discrimination, exploitation, and repression imposed upon this community since its dominion in 1893. Separated from their land and culture Native Hawaiians suffer today from severe health problems, high unemployment, high poverty, and low educational attainment. The federal government must accept moral responsibility for this consequence.

The situation is critical. Native Hawaiian children enter Kindergarten with lower vocabulary scores than other children. In achievement tests, Native Hawaiian students continue to perform below national norms and other ethnic groups in Hawaii.

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Native Hawaiian students also enroll in and complete higher education at rates below their peers. Native Hawaiian students rank first among the major ethnic groups in terms of alcohol and drug abuse in the state. Native Hawaiian adults have low literacy rates; thirty percent are at the lowest level, compared with 19 percent of adults in the state as a whole.

Since its enactment in 1988 the Native Hawaiian Education Act has provided early education programs in isolated Hawaiian communities, expand family involvement in the education process, provide culturally sensitive curriculum, and increase Native Hawaiian enrollment and retainment in postsecondary institutions.

The cancellation of these programs would devastate our efforts to raise educational achievement of Native Hawaiians, and abrogate the trust responsibility of the U.S. government implicit in the enactment of the 1920 Hawaiian Homes Commission Act and in its explicit acceptance in the Hawaii Statehood Act.

We sincerely hope that the Department will change its position on this issue and join our effort to seek funds for the Native Hawaiian Education Act in FY 1994 and subsequent years.

Thank you for your attention to this important matter.

Sincerely,

Patsy T. Mink

Daniel K. Inouye
U.S. Senator

Patsy T. Mink
Member of Congress

Daniel K Akaka

Neil Abercrombie

Daniel K. Akaka
U.S. Senator

Neil Abercrombie
Member of Congress

Chairman KILDEE. I appreciate that. Your name is already very well known at Secretary Riley's office.

Mrs. MINK. Thank you for reminding me of that.

Chairman KILDEE. We begin our testimony this morning. The first witness is Dr. Scott Butterfield, president of the National Indian Education Association, Lincoln, Nebraska.

Dr. Butterfield.

STATEMENTS OF SCOTT BUTTERFIELD, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION, LINCOLN, NEBRASKA; CAROL L. BARBERO, NAVAJO COMMUNITY CONTROLLED SCHOOL BOARDS, WASHINGTON, DC; AND MYRON B. THOMPSON, KAMEHAMEHA SCHOOLS, HONOLULU, HAWAII

Mr. BUTTERFIELD. Mr. Chairman and members of the subcommittee, on behalf of the National Indian Education Association I appreciate this opportunity to appear before you and present our views on reauthorization concerning education for Native Americans and Native Alaskans in this country.

I am a Winnebago Chippewa Indian, member of the Winnebago tribe of Nebraska, and currently serving as an elementary school principal in Lincoln, Nebraska.

Chairman KILDEE. I might point out that Michigan has a number of Chippewa, Ottowa, and Patawatamee and the language is similar between the three, are they not?

Mr. BUTTERFIELD. Similar. Winnebago is more of a Siouan dialect in a way than Chippewa. My grandmother is from White Earth so it is from the Minnesota area that my Chippewa background comes to me.

NIEA is the largest single Indian education group in this country. There are many smaller groups that affiliate and work with NIEA, but we have had the largest membership year in and year out for the past 25 years and are beginning our silver anniversary as a nonprofit organization representing Indian education from preschool through adult education.

We would like to submit to you a collection of recommendations for proposed amendments that have been gathered by a number of different people by ourselves from a number of different places, including the White House Conference on Indian Education, our own annual convention, including our resolutions from the Indian Nations At Risk report, from testimony that we have held at our annual convention from groups that have submitted recommendations to us to forward on their behalf and ours to this committee and others so that the best interests of Indian education could be addressed and, hopefully, strengthened in the process of reauthorization in the near future.

Chairman KILDEE. Those recommendations will be included in the committee record and filed.

Mr. BUTTERFIELD. One of the primary themes that we are working toward with our proposed amendments would include strengthening the relationship and the connection between public schools, Bureau schools, with the Native American community that they service, and in that capacity we are submitting a number of proposals that would do just that. I am going to speak primarily toward the Indian Education Act and you will hear some testimony on the Bureau side from Ms. Barbero so I will pretty much limit that to Indian education concerns.

But part of our concern is in the Bureau side that there become a stable funding base towards the Bureau schools that presently does not exist and it seems to be a chronic problem in terms of shortfall in dollar amount that needs to be addressed so we are going to propose some things along with Ms. Barbero and the group she is speaking to that might address that.

We also would like to see the Bureau schools develop or you develop a mechanism for including the Bureau schools in programs that are funded by the Department of Education so that they are not eliminated from participating in some of those Department of Education programs that would help the students that attend Bureau schools, for which they are not eligible currently.

We would also like to ask that the programs that are in place become more culturally relevant to Indian students. Much of our findings have demonstrated that native languages and developing and providing culturally relevant education should and does help students achieve better than they are in the absence of that.

We are also looking for some efforts to improve and expand the data collection processes that are not very good right now so that we have better information to work from, and so that needs to be put in place because I have heard this for a number of years that there just is not an adequate database collection site or mechanism in place for being able to develop what needs to be done.

We are also hoping for an improved accountability and utilization of the funds for Indian or Alaskan Native students through an improved reporting and coordination effort, and in those general themes I would like to expand on them some as I go through this.

The Bureau of Indian Affairs schools are not eligible for many of the grant programs administered through the Department of Education and what we are proposing is that those schools be defined as LEAs so that they can receive some of those funds.

In addition to that, well, let me describe some of those. Those would be like the Chapter One dropout prevention program, the Chapter One handicapped, the Chapter One neglect and delinquent programs, secondary schools basic skills demonstration grants, Chapter Two State block grants, the inexpensive book distribution program and others. These are programs that public schools are eligible for but Bureau schools are not.

And there is a mechanism in place for flow-through dollars from the Department of Education to the Department of the Interior and the Office of Indian Education Programs in the BIA. We would like to see that some of these programs are now eligible for those schools as well so that they can benefit from the programs that are in place.

We recognize that in today's statistics that not a lot of the total population of Indian students attend Bureau schools; however, if you take what we define as Indian country and broaden that a little bit, roughly 40 percent of Indian students attend public schools or Bureau schools and so what we are hoping to do is to get those communities more involved so that the kinds of programs that are put in place can more accurately reflect the needs and desires of the community.

And I think that there are many examples across this country where school districts simply don't give the kind of attention and listening to the Indian community that they should in order for those programs to best serve Indian students.

Time and time again we hear stories of school districts that submit applications that the community just simply isn't aware of and that they haven't really signed off on and yet the application has been submitted.

So we are trying to put mechanisms in place for that to be corrected so that Indian parents and the chairpersons can better address what they feel is necessary for their Indian students at those schools.

Those amendments would strengthen the ability of tribal governments to have an input into and participation in the programs that are available in their communities or in the public schools surrounding their communities.

In the absence of a school district applying for an Indian education formula grant or other, they would then be allowed to apply for that money, even if the school district did not, and those services that may otherwise not get to Indian students would then still be available to them if the school districts aren't willing to put something to give to themselves.

We are hoping that in looking at our proposals you will look favorably upon the notion of helping the travel education departments. These are not very strong at the present time but, again, it is the idea of getting people from the tribes more actively involved in the schools and the delivery of education services to their kids through the tribal department of educations that exist across the country.

Presently most of the activity is centered around through higher education scholarship programs through the Bureau and many tribes would like to develop education codes that would extend beyond the tribe's limitations and extend over to the public schools so that they would then dialogue more closely with the tribes and provide services that are more in keeping with what the tribal community feels is necessary for their children.

At present that is not the case. I used to be a superintendent in an impact aid school district and I know that the school board felt that there was a separation that they could maintain legally that did not allow for a large degree of tribal input into the direction the school district took, and so we are hoping that we can cross those lines somewhat so that the Indian community has a greater say in the kinds of programs that will be put in place in the public schools and the Bureau schools that are in their communities.

We are hoping that we can enhance and build on some of the gifted and talented programs for Indian students. That is something we need very dearly. We would like to try to develop or create some child find screening processes for preschool students in the gifted and talented area and expand on what is already in place.

Some of the things that we are proposing are already part of the national goals that are in place. The Indian Nations At Risk report included five of the national goals in its 10 that it submitted and then had six of its own. The only one that wasn't in place from the national goals was the goal that the United States will be first in the world in math and science, but all the others were included and shaped to fit the Native American perspective on those different issues.

We would like to see the Office of Indian Education director position be elevated from what it is presently. I believe, if I am correct, that the Office of Indian Education never once met with the Secretary in the previous administration. I find that somewhat appalling.

I don't believe that he really had a sense for what occurred and what needs to take place there, so what we are trying to do is to have that individual be able to report directly to the Secretary so the Secretary has a greater feel for the programs that are in place through the Indian Education Act.

We are also hoping that while the language is already in place to some degree that the person in the director position have oversight responsibilities for programs that are not directly in the Indian Education Act but would be included in, say, the impact aid law and have some input into how Chapter One is dealt with.

Those flow-through moneys, I think there is a place for the director of Indian education to be involved in those things and currently I don't believe that is the case. We have laws for flow-through money and dollars that service communities that have Indian populations with those identified needs, but we don't have the people in the Department of Education actually addressing perspectives from that office to those different programs within DOE. So that is important to us.

We are also looking at trying to expand and improve the role that is played by the National Advisory Council on Indian Education and so that that will become less politicized in the appointments and more able to respond to and recommend those elements that need to be worked on within these various laws that are already in place.

The culturally relevant portion that I mentioned earlier is something we would like to address. We would like to create a section within the Indian Education Act that allows for the development of curricula materials, texts, materials that can be used by local Indian education groups at the formula grant level, and then which could be shared through the technical assistance centers and disseminated to a larger audience where those materials are sharable and usable by other groups.

We don't have a piece in place right now like that and I think that if this was put in place it would greatly expand the available materials from a curriculum standpoint than is presently available. I know that I've been in education now some 18 years myself and there still is no curriculum that you can really get to work with Native students in public schools or Bureau schools that is Indian-developed, Indian-supported, and usable for students in different areas.

And while we realize that what materials may be applicable and usable in one part of the country may be not as useful in another; nevertheless, the idea of having materials that address a Native

American perspective, an indigenous peoples' perspective that isn't European-centered, is something that we greatly need in this country.

The State of Nebraska recently passed a multicultural education bill requiring all districts to infuse multicultural education into their curriculums throughout the range of studies that students are exposed to, not limiting it just to social studies but to expand it to all fields. That is quite an endeavor and I think something that the State needs to be committed on, but this is the kind of thing that we are talking about that could be addressed through the Indian education program through this particular portion.

We are also hopeful that we can forward our proposals in a manner that will allow us to develop Indian education research bases through another bill that is being proposed, but one that will expand on some of the regional laboratories.

I know that that is not part of reauthorization but it is a concern because, as I look at the labs across this country, there is only one that I know of that is active in the area of Indian education research and so we are hoping that we can make some positive initiatives in those areas as well.

We are also proposing that the LEAs that have formula grants work more closely in describing how they will coordinate the various resources through the Department of Education in delivering services to Indian students. That means it crosses the boundary of limiting themselves to the Indian Education Act but what kinds of services might they provide Indian students who qualified for Chapter One or the Eisenhower math and science program or gifted and talented services so that in the application they describe how those various programs will be utilized to better service Indian students who have a need for that kind of resource.

We are concerned about some of the language that has come out of the Department of Education. I worked as one of the writers that put together the transition team report for, at the time, the unnamed Secretary of Education in December and I know some of the words that came out in that discussion within the elementary and secondary education program included things like commingling of funds and the relaxing of language like the supplement, not supplant, language.

We do not support those initiatives of commingling funds and relaxing the supplementary programs that would be put in place by these kinds of programs; however, we do believe that there should be coordination of efforts and that whole school delivery is a concept that makes sense, but not at the expense of the unique nature and status of Indian students that attend our schools in this country.

And so I think in looking at all of these different things, Indian people are continuing to strive for recognition of their unique nature in this country as a group of people that have been poorly served by the educational systems and are hoping to strengthen this program, the Indian Education Act, and all the other ones that deliver services to Indian people. I think through doing all of this we can have better results than we currently have.

As a former superintendent of a district that received roughly 50 percent of its funds through the impact aid law, I am very concerned that so many of the impacted schools, the Indian-impacted schools, are housed in buildings that are in terrible condition.

The students who have those school buildings are already suffering from the poor quality of education that may be delivered and then they walk into a school that is in such poor condition the imagery that you have in your mind about the importance of education as a value that the people educating those students might have towards them is somewhat framed by the image of the building you walk into, and yet Congress has not seen fit to appropriate the kinds of moneys that would address anything near the school construction needs for Indian-impacted schools across this country.

And I realize that these are hard times and dollars are tight, but I feel that this particular area is one that needs to be addressed and something positive needs to be done. I would have thought that as we look at rebuilding this Nation's infrastructure, public schools and some of our hardest hit economic communities, American Indians might be addressed in some fashion through school construction that would make a statement about how we value education and how that can make a difference in a young person's life and what kind of impact that education could lead to for that individual and for the tribes they represent, whether they stay on the reservations or whether they live in urban environments like I do.

The impact aid law and the Indian Education Act both are ones where we are trying to initiate some greater communication, as I said earlier. Through the Indian Education Act we are proposing that a grievance procedure be initiated so that parent committees that feel they are not getting the message across to communities can have a format through which they can air their concerns. At present that does not exist and so we are hoping that that will be in place.

And for the impact aid school districts, many in-need communities feel that through the IPP, or the Indian Policies and Practices Provision, that they will have a chance to review the application, but the imagery there for those people is that that application is somewhat like a grant with goals and objectives and the problem is is that it is not. It is really a formula-driven student count to offset the nontaxable land that is on the reservation so that those schools can provide a public school education.

And it bothers me that repeatedly we have to come back to Congress and reeducate Congress on what impact aid law is about and what those school districts might have to go through in the absence of those funds, and so we are concerned about that.

If B students were to be eliminated, I would hope that money might be redirected to Super As so that those Indian students would have a greater funding base than they have presently because when you get held at the hold harmless level going back to 1987 with a few formula changes year in and year out, there is just no way for those school districts to keep up with the fixed costs, salary adjustments that are required by States, and still provide the kind of education that needs to be delivered to many of the students across this country.

So there is obviously a broad range of issues that we are addressing here. We hope that you will look at them very closely.

We realize that some of them are proposing new dollars in a day and age when new dollars are hard to come by, but I would argue that this Nation's first citizens, although they were the last to be recognized as citizens of this country, deserve better than what they have been getting and we would hope that in reviewing these things you would see the merit that we see in them for the Indian people of this country.

Thank you.

[The prepared statement of Scott Butterfield follows:]

NATIONAL INDIAN EDUCATION ASSOCIATION
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(202) 835-3001

STATEMENT OF THE NATIONAL INDIAN EDUCATION ASSOCIATION
BEFORE THE
HOUSE EDUCATION AND LABOR SUBCOMMITTEE ON
ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

ON REAUTHORIZATION OF ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

APRIL 27, 1993

Mr. Chairman and Members of the Subcommittee, on behalf of the National Indian Education Association, I appreciate the opportunity to appear before this Subcommittee to present our views on reauthorization of the nation's elementary and secondary education programs. I am Dr. Scott Butterfield, President of the National Indian Education Association (NIEA). I am Winnebago/Chippewa, an enrolled member of the Winnebago Tribe of Nebraska, and Principal of an elementary school in Lincoln, Nebraska.

NIEA is a nonprofit association dedicated to improving education for Indian and Alaska Native people. We have approximately 2,800 members, most of whom are Indian, Aleut or Inuit, and most of whom are directly involved in education as teachers, administrators, or in tribal and state education offices. Our interests extend from pre-school through graduate and adult education. NIEA hosts a conference which is the largest annual gathering of Indian and Alaska Native people. The paid attendance at our conference in Albuquerque last November was 3,700. We provide for the record an agenda of our last conference so that you can see the range of topics and activities.

We have submitted a large number of proposed amendments to this Subcommittee for consideration for inclusion in the legislation reauthorizing elementary and secondary education programs. Our proposals would affect both Department of Education and Bureau of Indian Affairs programs, and some are aimed at strengthening the link between tribal communities, tribal governments and schools, especially public schools. Attached is a listing of the amendments we hope to see in the elementary and secondary reauthorization legislation.

Our recommendations were approved at the January, 1992 NIEA Board meeting, and were drawn from NIEA resolutions, from recommendations made at legislative sessions at our November, 1992 conference in Albuquerque, from recommendations submitted to us as the result of our mailings to tribal governments and Indian organizations, from NCAI resolutions, from communications with federal officials, and from recommendations of the White House Conference on Indian Education and the Department of Education-sponsored Indian Nations at Risk report.

We are frequently asked for education statistics, and so provide the following information from the 1990 Census. The data gives a certain context in which to consider the needs of Indian and Alaska Native people.

The 1990 Census reports that 34.5% of all Indian and Alaska Native people over age 25 do not have a high school or a Graduate Equivalency Diploma. The figure for Native people over age 25 who reside on reservation lands and in Alaska Native villages is 46%. However, the national figure for Indian and Alaska Native people over age 25 whose highest educational achievement level is high school is nearly the same as in reservation/Alaska village areas -- 29.1% for the national Native population compared to 30.1% for those persons living on reservation lands and in Alaska Native villages.

The 1990 Census also reports that of Indian people residing on reservations, 25.7% of those age 16 and over in the civilian labor force were officially classified by the standard Census/Bureau of Labor Statistics definition as unemployed; while 50.7% of Indian people on reservations were officially classified as at or below the poverty line.

The College Board reports that the average SAT-Verbal score in 1992 for Indian and Alaska Native students was 395, 7 points higher than in 1976, but still 28 points below the national average. The average SAT-Mathematical score for Indian and Alaska Native students in 1992 was 442, 22 points higher than in 1976, but 34 points below the national average.

We expect to have additional Indian/Alaska Native education information from the 1990 Census over the next few years, as Congress provided $200,000 in FY1993 funds for special tabulations of Indian education information at the national and state level. The Department of Education has requested an additional $200,000 in FY1994 for special tabulations of the 1990 Census data at the school district level, including compiling data which relates educational information to family and economic characteristics.

THEMES

The National Indian Education Association's proposed amendments can largely be described in terms of the following themes:

- Provision a stable funding base for the Bureau of Indian Affairs school system.

- Inclusion of Bureau of Indian Affairs system schools in all Department of Education grant programs.

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- Empowerment of Indian and Alaska Native tribes and individuals in the education of our people.

- Making education more culturally relevant, including increasing the teaching of Native languages.

- Better planning and funding for Indian and Alaska Native education through improved and expanded data collection and research.

- Improved accountability and utilization of Indian/Alaska Native education funds through required coordination and reporting on the use of these funds.

- Increased service to tribal communities.

Additionally, we proposed a number of amendments which are technical in nature.

SPECIFIC PROPOSALS

Provision of a Stable Funding Base for Bureau of Indian Affairs system schools. We propose that a stable funding base for the 182 BIA elementary and secondary schools and dormitories be achieved by making the BIA funding to these schools an entitlement. The entitlement amount will be based on new formulas to identify the amounts needed for the schools to perform their missions. These missions are stated in terms of academic standards and national dormitory criteria, and will also take into account transportation and administrative needs. The task of developing these formulas would be given to the National Academy of Sciences (the same entity proposed in the Neighborhood Schools Improvement Act), in conjunction with an Indian/Alaska Native advisory panel, to perform a similar task. The formulas developed are to be sent back to key Congressional committees, BIA and tribal schools. At that time, Congress could decide whether to statutorily require use of the formulas or to subsequent budget development.

Inclusion of Bureau of Indian Affairs system schools in all Department of Education Grant Programs. BIA system schools are not eligible for some of the grant programs administered through the Department of Education. This is largely a drafting oversight. Often the eligible applicants for programs are "LEAs" (Local Education Agencies) whose definition usually includes public schools but not the schools funded by the Bureau of Indian Affairs. We propose to define BIA system schools as "LEAs" while keeping in tact the legal relationship between these schools and their tribal governments and the Bureau of Indian Affairs. The proviso would provide that the SEA would be the tribal government or the Bureau of Indian Affairs.

We have worked closely with the Association of Navajo Community Controlled School Boards on the proposal concerning provision of a stable funding base for BIA schools. They are also testifying here today and we refer you to their testimony for a more detailed description of the proposal.

Some of the programs for which BIA system schools are not currently eligible are: Chapter 1 Dropout Prevention, Chapter 1 Handicapped, and Chapter 1 Neglected and Delinquent programs, Secondary Schools Basic Skills Demonstration grants, School Dropout Prevention Act, Chapter 2 State Block Grant, and discretionary Chapter 2 programs including National Diffusion Network activities, Inexpensive Book Distribution Program, Arts in Education Program, Law-Related Education Program, and Blue Ribbon Schools Program. Additionally, BIA contract and grant schools are eligible for the Even Start Program, but the schools directly operated by the BIA are not, and we wish to correct this. In some cases, we suggested specific percentage allocations for the BIA system schools.

In addition, we propose that BIA funds be allowed to be used as a the non-federal "match" often required of Department of Education grants. Because virtually all of the funds for BIA schools are federal in origin, nonfederal match requirements make application for these Department of Education programs not viable.

Empowerment of Indian and Alaska Native tribes and individuals in the education of our people. We often hear that only 11% of Indian and Alaska Native children attend Bureau of Indian Affairs schools. That is true. There are 44,000 Indian students in attendance at 182 BIA schools in 23 states on 63 reservations. However, according to the 1990 Census, nearly 40% (39.9%) of Indian and Alaska Native people ages 5-18 reside in what we call "Indian country" (defined here to mean reservation and trust land areas, Alaska Native villages, and Indian areas in Oklahoma). Thus, our attention to the role of tribal communities and tribal governments in elementary and secondary education goes much beyond the purview of students attending BIA schools.

We propose amendments designed to strengthen the ability of tribal governments to be involved in the education of their children and also to strengthen the Indian parent committees associated with the Indian Education Act and the Impact Aid programs.

We propose a new program under the Indian Education Act, the Tribal Education Planning and Development Grants program. Tribal governments (or tribal organizations sanctioned by the tribe) could utilize the funds to provide for and coordinate certain aspects of the education of the children of the tribe. Examples of such activities include coordination of education programs, development of education codes, provision of support services and technical assistance to schools, performing child-find screening services for pre-school age children, certification and

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specialized training for teachers of Indian children, development of culturally appropriate curricula, academic standards and achievement measuring devices. Coordination of these efforts with the educational entities -- such as schools, Head Start, colleges -- within the tribe's jurisdiction would be required if they would be affected by the purposes for which the project is undertaken.

We propose that in cases where an LEA does not apply for Indian Education Act funds, the tribe could administer the program. We also propose that, under the school reform legislation, LEAs located on or near reservations must incorporate into the local plan, tribal education codes and standards if the tribe involved has adopted such code or standards.

Indian and Alaska Native interests regarding Indian Education Act parent committees would be served by increasing the percentage of Indian parents required to be on the committees, by development of grievance procedures, by requiring the signature of the parent committee and the school board on Indian Education Act applications, and a requirement that annual professional workshops be held for joint attendance by the parent committee and the LEA.

With regard to the use of Impact Aid funds, we propose to require that a comprehensive plan be developed by LEAs in consultation with tribes and parents. The plan is to provide for Indian student needs as reflected in tribal education codes, is to show how Impact Aid funds are to be used in conjunction with other Indian funding to meet the objectives of the plan, is to demonstrate good faith compliance with tribal and parent consultation requirements of all funding sources. This plan would be part of the Impact Aid application process.

Among proposals designed to enable federal education offices to better serve Indian and Alaska Native needs, we propose to elevate the Office of Indian Education so that the Director of that office reports directly to the Secretary, to require more education background for members of the National Advisory Committee on Indian Education at DOE, and to establish a permanent position in the Office of Indian Education at the BIA for Indian adult education.

Making education more culturally relevant, including increasing the teaching of Native languages. In addition to the support for tribal education planning and development grants, and adherence to tribal education standards noted above, we propose that education be made more culturally relevant for Indian and Alaska Native students by increasing the teaching of Native languages.

A finding of the Department of Education's 1991 report, "Indian Nations at Risk: An Education Strategy for Action" is that Indian tribes are at risk, in part, because of a loss of Native language ability. The report recommends: "By the year 2000 all schools will offer Native students the opportunity to maintain and develop their tribal languages and will create a multicultural environment that enhances the many cultures represented in the school." The 1990 report by the National Park Service, "Keepers of the Treasurers: Protecting Historic Properties and Cultural Traditions on Indian Lands" and the 1992 White House Conference on Indian Education report similarly made strong recommendations that Native languages must be preserved and their use enhanced.

NIEA proposes that the funding formula for BIA system schools include weights for Native language courses, and that the Bilingual Education Act be amended to allow for teaching of Native languages.

Other proposals in the area of culturally relevant education include the following under the Indian Education Act: the development of Indian education curricula; an early childhood program; and funding for Indian Education Advisory Councils, one mission of which would be to work with states on culturally relevant curricula.

We also propose establishment of institutions specific to Indian education needs. We propose the establishment of an Indian/Alaska Native education research center and also propose a feasibility study for an Academy for Native gifted and talented students. We also propose to expand the responsibilities of the existing Indian Education Technical Assistance Centers, which are funded under the Indian Education Act, to provide assistance to and disseminate information about adult education projects. (One of the duties of the proposed Indian Education Center would be to do a national needs assessment on Indian/Alaska Native adult education). And in an effort to document and highlight the need for training in Indian history and culture as part of state certification standards, we propose that LEAs report in their Indian Education Act applications the amount of training its teachers and counsellors have had in Indian history and culture and on plans to obtain this needed education for school personnel.

With regard to our proposal to establish an Indian/Alaska Native education research center, we are submitting that proposal to the Select Education and Civil Rights Subcommittee as a proposed series of amendments to H.R., the legislation which would reauthorization and expand the Office of Educational Research and Institute.

Better planning and funding for Indian and Alaska Native education through improved and expanded data collection and research. With regard to the BIA system schools, NIEA proposes to require the collection of Indian student demographics data on an on-going basis in order to aid in the budget development process. This activity would emphasize the two primary elements in enrollment predictions: 1) charting the number of on- or near-reservation Indian children in each age group and 2) gathering (contemporary) historical data on the percentage of Indian children in a reservation community that attend BIA system schools vs. public schools. This data could also help track students who drop out of school.

We also propose to amend the Impact Aid law to require school districts to keep information on Indian and non-Indian student attendance, achievement, matriculation, and graduate rates. Parents should have access to this information, and the information should be provided to tribes and tribal education departments. Tribes and school districts should jointly review and evaluate the information, and work together in presenting this information to parents and tribal communities.

As mentioned in the above section of making education more culturally relevant, we propose the establishment of an Indian education research center a part of the pending education research legislation. Finally, within the Indian Education Act we propose funding for Indian Advisory Councils, one mission of which would be Indian education data development and collection from state agencies.

Improved accountability and utilization of Indian education funds through the required coordination and reporting on the use of these funds. We propose that an LEA's application for Indian Education Act (IEA) formula grant funds include a comprehensive action plan for the education of its Indian and Alaska Native students -- addressing funding from all applicable sources -- and to perform an annual evaluation of the plan's success. In many cases, recipients of IEA formula grants receive funding from other federal sources (Johnson O'Malley, Impact Aid, Bilingual Education Act, Chapter 1, Drug Free Schools) as well as from state and tribal governments. Maximizing the benefits of these funds requires coordination of efforts, goals, objectives and evaluation. The development of such comprehensive Indian education plans was one of the five major strategies recommended by the Indian Nations at Risk Task Force. Since IEA formula grants are the most widespread form of federal aid for Indian education, this is the most appropriate place to introduce an accountability and coordination requirement.

Increased service to tribal communities. We propose to maximize the benefits of the Indian Education Act fellowship and education personnel development programs by requiring new recipients of those forms of financial aid to return service at the rate of one year of service for each academic year of the fellowship/traineeship. For the *education personnel development* program, participants would have to work in schools which serve Indian/Alaska Native students or in Indian/Alaska Native education programs, including tribal departments of education. Additionally, we propose that IEA *fellowship* recipients be required to serve in jobs which directly benefit Indian or Alaska Native people. If payment is not made through service, the recipient would be required to repay the amount received. All monetary repayment would be made to the Secretary, for further fellowship/traineeship awards. Provision is made for extenuating circumstances when required service employment is not possible. The Office of Indian Education estimates that less than one-quarter of OIE fellowship recipients work in Indian programs, but that at least half of those receiving fellowships for study in the education and medical fields are employed in Indian programs following graduation.

This service repayment approach is similar to that required by the Indian Health Service loan repayment program. Also, the Higher Education Act Amendments of 1992 authorize tribal student assistance programs though the BIA which would require service to the tribe in return for financial assistance.

Finally, we repeat in this testimony our response to the Department of Education's question of whether states should have a role in the administration of Indian Education Act programs. This issue was discussed in general assembly session at the last NIEA convention, and the membership opposed a resolution which would have provided IEA money to states. While states do have responsibilities for the Indian and Alaska Native students within their borders, these should be funded through state funds. NIEA has proposed that IEA provide support for Indian/Alaska Native advisory councils to assist states in the area of information collection, technical assistance, and development of education plans which are culturally and linguistically relevant for Native students. But we oppose state administration of IEA funds. Education needs that are addressed by Indian Education Act programs and which are specific to Indian and Alaska Native children are more effectively addressed locally. This task is not aided by creating an additional administrative layer at the state level.

Thank you for your attention to the education needs of Indian and Alaska Native people.

ATTACHMENT

Indian Education Act (Title V) Proposed Amendments

"Floor" Amount for IEA Formula Grant (Subpart 1)
IEA, §5312 [25 USC §2602]
Study/Consultation on IEA Formula Grant (Subpart 1) Calculated Method
IEA, §5312 [25 USC §2602]
Training in Indian history and culture for teachers of Indian children
IEA §§5313, 5314 [25 USC §§2603, 2604]
Regular IEA Workshops for LEAs and Parent Committees
IEA, §5314 [25 USC §2604]
Coordination + Accountability Plans for LEAS who Receive Indian Education Act Formula Grants
IEA, §5314(a) [25 USC §2604(a)]
Require Parent Committee and School board Approval of IEA Formula Grant application
IEA §5314(a) [25 USC §2604(a)]
IEA Parent Committees
IEA §5314(b)(2)(B)(ii)
[25 USC §2604(b)(2)(B)(ii)]
Composition of IEA Parent Committees
IEA, §5314(b) [25 USC §2604(b)]
Elimination of 506 forms for BIA-funded schools and schools who receive Johnson-O'Malley funds
IEA, §5314 [25 USC §2604]
Alterations in IEA Definition of "Indian"
IEA, §§5314 and 5351 [25 USC §§2604 and 2651]
Notification of IEA Formula Grant Amounts
IEA, §5315 [25 USC §2605]
Indian Leadership + Cultural Awareness Program
IEA, §5321(b) [25 USC §2621(b)]
Indian Education Technical Assistance Centers -- Services for Indian Adult Education,
IEA, §5321(e) [25 USC §2621(e)]
IEA Education Personnel Development Programs -- Service Repayment Requirement
IEA, §5322 [25 USC §2622]
Fellowships for Indian Students
IEA, §5323 [25 USC §2623]
Indian Curriculum Development and Assessment Devices
IEA, new Sec. 5325 [25 USC §2625]
Grants to Tribes for Education Administrative Planning and Development
IEA, Subpart 2 -- Subsection 5325 [25 USC §2625]
Director, Office of Indian Education
IEA, §5341 [25 USC §2641]
IEA -- Procedures for Resolving Grievances
IEA, §5341 [25 USC §2641]
IEA -- Scoring of Competitive Grant Applications
IEA, §5341 [25 USC §2641]

National Advisory Council on Indian Education
IEA, §5342 [25 USC §2642]
Additional eligible applicants for formula grant funds
IEA, §5351 [25 USC §2651]
Report on Coordination of Dept. of Education Efforts on Indian Education -- Hawkins-Stafford Act, Title VI, Part C -- New Provision
Indian Advisory Councils to advise state and local education agencies -- New Provision

Proposed Amendments to BIA Elementary & Secondary Education Law (25 USC §§2001, et seq.; 25 USC §§2501-2511)

BIA Adult Education -- Supervision by Director, Office of Indian Education Programs
25 USC §2006 (Bureau of Indian Affairs education functions)
Funding "floor" for Indian School Equalization Formula
25 USC §2008 (§1128 of Education Amendments of 1978)
Payments to BIA-funded Schools
25 USC §2008(b) (§1128(b) of Eduction Amendments of 1978)
BIA-funded schools -- additional weights for Native language curriculum
25 USC §2008(c)
Admission of non-Indian to BIA-funded contract + grant schools
amend 25 USC §2008(g)(3) (PL 95-561 §1128)

Administrative Cost Grant funding
amend 25 USC §2008(a)(1)
(PL 95-561 §1128A)
"Match" requirement for federal grant programs
25 USC §2009 (§1129 of Education Amendments of 1978)
Tribally Controlled School Grants -- timing of payments
25 USC §2507 (PL 100-297 §5208)
Donation of Surplus/Excess Property to Grant Schools
25 USC §2507(a) (PL 100-297 §5209(a))
Appeal rights for Tribally-Controlled School Grantees
25 USC §2508(e) (PL 100-297 §5209(e))
BIA School System Funding Shortfall Reports
25 USC §______ (New provision in BIA education law)
Needs-Based Budget Formulae Development
25 USC §______ (New provision for BIA education law)
BIA School Student Transportation funding formula
25 USC §______ (New provision for BIA education law)

Educational demographics data collection for BIA-funded schools 25 USC §______ (new provision for BIA education law)

Authority for BIA school boards to hire attorneys
25 USC §2008(c)(2)(C)
Proposal to Convert Basic Funding For Federally-Funded Indian Schools to Entitlement Program Status [Separate Concept Paper]

Proposed Amendments to Other Laws

Indian Education Research Center
Sec. 405 of General Education Provisions Act 20 USC §1221e
Secondary Schools Basic Skills Improvement and Dropout Prevention grants -- Funds for BIA Schools
ESEA Sec. 1102 [20 USC §2762]
BIA School Eligibility for ESEA Handicapped and Neglected and Delinquent Children Programs
ESEA Sec. 1291 [20 USC §2811]
Chapter 1 -- Payment for BIA Administration
ESEA Sec. 1404 [20 USC §2824]
Definition of "local educational agency"
§1471(12) of Elementary and Secondary Education Act [20 USC §1471(12)]
Chapter 2 grant funding for BIA-funded schools
Sec. 1511(a) of Elementary and Secondary Education Act [20 USC §2921(a)]
Inclusion of Indian Programs in National Diffusion Network
Elementary and Secondary Education Act, §1562 [20 USC §2962]
Bilingual Education Act -- Bureau of Indian Affairs Schools
ESEA Sec. 7022(b) [20 USC §3292(b)]
Bilingual Education Act -- Training and Technical Assistance Programs
ESEA Sec. 7041(b) [20 USC §3321(b)]
Bilingual Education Act -- Indian languages
ESEA Sec. 7022(j) [20 USC §3291(j)]
Impact Aid -- Indian students
Impact Aid law, 20 USC §240
Impact Aid -- Construction
20 USC §631(b)
New section re Native American G/T Academy
Section 4110 of the ESEA [20 USC 3070]
New section re Pilot Project to survey Gifted + Talented
Pre-schoolers [20 USC §3069]
D.D. Eisenhower Math & Science Education Act to increase Indian school funding [20 USC §2984]

Chairman **Kildee**. I thank you very much, Dr. Butterfield.

Ms. Barbero.

Ms. **Barbero**. Good morning, Mr. Chairman, members of the committee. I would like to say at the outset I am here representing the Association of Navajo Community Controlled School Boards.

It is an association of 12 school boards on the Navajo reservation in New Mexico and Arizona and I wish this morning that representatives of my schools, the schools that I represent, and the association could have been here to present this testimony but, unfortunately, the BIA-funded school system is in a terrible financial crisis and they just could not afford the trip to Washington so they asked me to come and deliver testimony on their behalf today.

ANCCSB has been working with other tribes with their funded schools and their reservations to propose amendments as requested by the committee last year and we have also submitted a number of draft amendments to the committee staff and I would like to say that they were developed in association with a number of tribes, including the Mississippi Choctaw tribe from Mississippi, the Ogala Sioux tribe from Pine Ridge, South Dakota, as well as our Navajo schools.

Mr. Chairman, I am sure you are familiar with the way the BIA-funded school system is organized, but I am not sure if everyone on the dais today is so I would like to take just a few minutes to briefly describe the structure.

There are right now 182 schools in the Bureau-funded system. Next year we expect a couple of more to join. These are all totally federally funded schools, elementary and secondary level and some dormitories.

Some of the dormitories provide residential services only and the children in the dorms go to public schools. There are also boarding schools that provide both residential and instructional services to these Indian children. All of them are located on or near Indian reservations.

Our enrollment stance is at nearly 44,000 right now in terms of total number of children served, but since we serve nearly 10,000 children both residential and instructional, it is probably more accurate to say that there are over 53,000 children served by this federally funded school system.

Nearly half of the Bureau-funded schools are operated directly by tribes and tribal organizations. This has been something that I know this committee has always encouraged and we are very grateful for your support of tribal self-determination initiatives.

Most of the schools are operated through the new vehicle that you folks created in 1988, the Tribally Controlled Schools Act. It is a grant program with a lesser amount of oversight provided by the Bureau of Indian Affairs to the tribally run schools. The remainder of the tribally operated schools are operated under the Indian Self-Determination Act contract mechanism.

The remaining half of the Bureau funded system is run by the Bureau directly with Federal employees. We have Bureau-funded schools on over 60 reservations throughout the country so the cultural and linguistic background of the children in these schools is quite diverse.

Our population in these schools has been increasing over the last couple of years. Last year we recognized a tremendous increase of nearly 5 percent. In part, this was due to the high birthrate that we have had in Indian country and it was also due, in part, to the recession which resulted in a number of Indian families who had been living and working off the reservation and were victims of the recession returning to the reservation to live with family members and they enrolled their children in the Bureau-funded system and, in some cases, a number of children were enrolled in dormitories just so they could get three meals a day.

And that is a circumstance that is not new to last year. In a number of cases we do have children who are enrolled in the dormitory because their parents are fearful they cannot feed them.

I would also like to make a comment about the facilities of a lot of the Bureau-funded schools. I agree very much with Dr. Butterfield when he comments about the condition of the schools Indian children attend that are supported by the impact aid program. We have a similar deplorable situation at many Bureau-funded schools around the country.

There are over 60 applications pending with the Bureau of Indian Affairs for new school construction for this system. We have been extremely encouraged by the commitment the Congress has made in the last couple of years to try and overcome this by doubling, tripling, the amount of funding that has been provided for new school construction in the Bureau-funded schools. And even with that level of commitment for which, as I say, we are very grateful, we can maybe start up to four new schools per year. The administration's budget request for this year calls, unfortunately, for commencing only one new school start in fiscal 1994.

In addition to the need for new construction, there has been a perennial backlog of facilities repair projects which the Department has now and then valued at $500 million. The current budget request says maybe over $550 million but this list has been around for such a long time that I frankly don't think anybody really knows what the size of the backlog is today because that $550 million backlog estimate was framed several years ago and I would not even hazard a guess at what the cost is today.

One other preliminary comment, Mr. Chairman, is that not only are our schools kind of in bad shape in many areas but they are also very overcrowded and this system, unfortunately, must depend on dropouts.

If we had all Indian children of school age enrolled in school or remaining in school after they enrolled, we would not have room to educate them. On the Navajo reservation where the schools that I work with are located some schools are bursting at the seams.

I was talking recently with a staff member in the Navajo division of education and asked if they had any up-to-date statistics on what the rate of nonschool attendance on the Navajo reservation might be and she said, "Well, we don't have any up-to-date information but we are undertaking a demographic survey." But she said, "I do believe that it could be as high as a 25 percent of nonschool attendance at Navajo." If those children or even half of those children decided to come to school we would not have a place to educate them down there.

Although our schools are diverse, scattered around the 60 reservations, they do share one unfortunate circumstance, and that is a critical funding problem.

Probably many of you are familiar with the existing crisis in the BIA-funded school system that prompted the Secretary of the Interior to encourage the President to ask for some supplemental funding for the BIA system in the economic stimulus package. The President did so but, unfortunately, because the bill died in the Senate the $48 million that was intended to help overcome this immediate crisis and the one we expect for the next school year did not come to pass.

We are, therefore, back in the same crisis situation and without some funding assistance I fully expect that we will see schools closing early. A number of schools have already had to cut back severely on staff because they can't meet payroll.

I have heard of one school that has disbanded its transportation program a month ago and said to the parents, "We're sorry we can't afford to run the busses. If you want your kids to be educated you will have to bring them to school yourself." And when you tell parents this on a reservation as isolated and as poor as the Navajos are, it is very difficult to get those kids into a school building.

So anything this committee could do to assist us in dealing with this terrible funding crisis would be tremendously appreciated. This committee has come to the aid of this school system time after time after time in its existence and we are very grateful for that assistance. You folks are the ones that insisted that the Department create the Indian School Equalization formula so that funding can be distributed on a relatively equal basis to schools. Before that the Bureau would decide arbitrarily how much money was put into each school.

It was this committee that authorized forward funding so that these schools could run on a July through June fiscal cycle rather than have to wait with bated breath into September to find out what amount Congress is going to appropriate for them for the October period.

It was this committee that 5 years ago authored the Tribally Controlled Schools Act that established a grant program with lesser oversight so the tribal school boards could have greater control over their schools.

And we would like to again ask for your assistance if you could help out in perhaps persuading Congress to enact some emergency funding relief to help us overcome the current crisis we are experiencing right now and the one that will come in the school year that starts in June.

That is a bandaid though, Mr. Chairman. What we really need is a more permanent fix to overcome our chronic funding difficulties. The problems really are threefold: there is an inadequate funding base; it is a fluctuating amount and we can really never tell from one year to the next really what the schools are going to be getting; and, third, it is generally untimely supplied.

These are all three problems that this committee has addressed before in the statutory mechanisms I just outlined, but I think despite everyone's best efforts we need something a little more permanent and a little more dictatorial. That is why we are having the temerity to use the E word. We are suggesting that the school system has to be converted into an entitlements program.

That is not a word that one likes to hear in this city and it is not one that I like to utter, but unless we can get these schools on a more recurring, dependable, adequate funding base they are not even going to have a chance to survive, let alone thrive.

I would like to take a few minutes, if I may, to outline the proposal that the ANCCSB schools have put together after a great deal of consultation with one another and with school board personnel on other reservations.

What we are proposing is the three primary funding sources in the school be converted to an entitlements program. The instruction money; obviously, that's the key.

Right now the Indian school equalization formula is the mechanism used to get instructional funding and residential funding to the schools. It is essentially distributed on what we call a weighted student unit basis. It is sort of a per capita basis only it also recognizes special circumstances of children, such as a learning disability gets additional weighting because if you have to hire a speech therapist to come in you need the additional funding to hire that individual.

It recognizes the lack of English proficiency. A number of Indian children come from Native Indian speaking households. They do not come to school speaking English or proficient in English so they need assistance there. It also recognizes additional funding needed for gifted and talented children.

Altogether, this is called weighted student units and funding to each school and dormitory is distributed according to that institution's total of WSUs.

The second portion of the funding for these schools that we would like to see converted is the student transportation program. We have really had some fluctuations in transportation funding. Right now the BIA system schools are getting about $1.51 per mile for their student transportation expenses. The national average is $2.34 a mile, according to the most recent edition of School Bus Fleet magazine.

So we are over 80 cents per mile below what the national average is and in most cases Indian reservation roads are in very poor condition and our bus routes are very long because the children, of course, are scattered throughout isolated parts of the reservation. So that is why we would also like to see the transportation system converted.

The third portion is called administrative cost grants created by Public Law 102-97 in which this committee had a hand 5 years ago as a formula mechanism to provide tribally operated schools with the administrative and indirect cost funding they need to run the school.

The theory has always been in the Indian Self-Determination Act and in the administrative cost grant mechanism that the Secretary of the Interior will supply a tribal contractor, in this case the tribal school board, with the same amount of funding that the Secretary would have had to operate that program directly and will provide additional funding to cover the costs of contracting.

And this country committed itself 10, 12, 15 years ago to the concept of Indian self-determination and has throughout that unbroken period since 1975 endorsed and re-endorsed the concept of Indian self-determination.

But Indian self-determination will be a hollow promise unless and until we are able to fully fund the indirect costs of the contractors; otherwise, there is a tremendous chilling effect on even taking over your own program. If you know you are not going to get sufficient funding to meet your administrative expenses, then there is a disincentive to try and take over one of your school programs yourself. You are just going to let the BIA continue to operate it or, if the school board does take it over and is supplied with insufficient funds to meet its administrative expenses, the only other source it can go to to meet those administrative expenses is from the money provided for instructional services. So it is a terrible choice. We have to run the program, but if we don't get sufficient funding it is going to be a real trade-off.

We have had the same situation with transportation for a long time. If you can't get the kid to school you can't educate him so we have been dipping into the instructional funds to support the transportation program just to get the kids to the school building.

Now, for all these reasons, Mr. Chairman, we are asking that this committee seriously consider converting just those three budget line items into an entitlement system that would work like this:

On July 1 of each year the Secretary of the Treasury would receive, or presumably by that time he would have received, a certified count of the number of WSUs and the number of transportation miles accumulated by each school in the system during the immediately preceding year, and when those certifications arrive the immediate draw is made from the Treasury and transmitted to the school boards. If it is a tribally operated school then that school's administrative cost grant allowance would be transferred as well.

Other funding needed for the school such as Chapter One substance abuse counselors, facilities operation and maintenance, things of that sort, we would propose be retained on the existing funding cycle and go through the appropriations process.

But at least in this way the school can know in advance what it will be getting, that it will be getting it on time.

Now, how much should they be receiving? We would propose that each weighted student unit receive the value of $3,499. This was the recommendation made by a blue ribbon task force that was created by the Bureau of Indian Affairs a couple of years ago. It was comprised of BIA educators, tribal educators, outside school funding experts, members of the Education and Labor Committee staff and the Senate Indian Committee staff, as well as central office personnel from the Bureau of Indian Affairs.

And after examining the funding situation at schools and what the school needs were, they came up with this recommended level of a per WSU rate.

Last year in its appropriations report the House Appropriations Committee encouraged the Bureau of Indian Affairs to come forward with a budget request that set the WSU base at the $3,499 level.

That has not occurred for this year but we are, nonetheless—I mean perhaps there were budget decisions made down at the Interior Department that we are not aware of, but the budget request does not contain that level. We, nonetheless, recognize that this is the most recent needs study done and would really encourage that that be the starting point for funding of the school system.

We would recommend that the transportation rate be set at whatever is the average expense, the nationwide average, and the administrative cost grants would be paid pursuant to the formula that is already set out in the statute.

We have done some preliminary budget comparisons and in my testimony I report and in a position paper that we have previously submitted to the staff we estimated that the difference between the fiscal year 1993 appropriation for these three programs and the first year under the entitlements mechanism that we are recommending, the difference would be about $95 million. In comparison to the newly submitted fiscal year 1994 budget, the difference is about $50 million.

We are pleased that the Bureau is recognizing the need for more accurate enrollment figures and a better funded WSU base, so we're not talking about a gigantic difference between the current budget request and the first year of our entitlements proposal.

I would also like to add a note about how we got in this funding crisis to begin with. In our opinion, there were really two causes for this.

In the last several years the BIA budget requests have been, in my view, unconscionably low. And that situation was bad enough, but when it was compounded with unreasonably low expectations of enrollment, then an already very, very skinny budget had to be spread even further over a big Indian student population.

And as a result, this school year the amount provided per weighted student unit has declined by $240. They cannot exist in this kind of atmosphere. That is why the economic stimulus package was so important to us.

We did get some temporary relief from a reprogramming that was approved by the appropriations committees, but that was intended to be temporary. In that reprogramming they took money from the Indian Child Welfare Act program to try and get some immediate infusion into these schools that were in terrible distress. And the way one of our school directors put it, "It is appalling to take funding from poor Indian children to give to poor Indian children," but that is exactly what happened here.

And we were hoping that with the economic stimulus package we would be able to replenish the Indian Child Welfare Act account that was a fund from which about $9 million was taken to replenish the school system to keep the school system operating and now I frankly don't know what we are going to do.

But it appears as though without some assistance from Congress that Indian Child Welfare Act account is not ever going to be replenished.

Another problem that we have had in this system is getting some accurate enrollment projections. Now that the Bureau has to make budget recommendations 2 years in advance they need some better data on what the projected enrollment is going to be in the system, what percentage of Indian children are going to be attending the Bureau-funded system as opposed to the public school system that probably exists on most reservations. Some of them don't though, by the way, like the Mississippi Choctaws. For instance, nearly 100 percent of their children are in the BIA-funded school system.

In some places in South Dakota two-thirds of the children are in the BIA funded school system. At Navajo about 15 percent of the children are in BIA-funded schools. So it varies from reservation to reservation and we are desperately in need of better data, demographics data, on school age Indian children so that better budget projections can be made, and certainly better planning for facilities depends upon good demographics data.

As a consequence, one of the items that Dr. Butterfield discussed was our recommendation that the National Center for Education Statistics be brought into the demographics data-gathering effort for Indian Schools and gather demographics data on a routine, regularized basis to supply to the Bureau of Indian Affairs and to other entities in the Federal Government that have need for this data of school age Indian children on and near reservations.

If I could jump back for one moment, I forgot to mention something that I think is an important point to mention with regard to our entitlements proposal, and it is the need for timely payments.

Our proposal asks that the payments made to the tribally run school boards, those run by Self-Determination Act contractors and the tribally controlled school grantees, that those payments be made expressly subject to the Prompt Payment Act.

Let me explain why. The Prompt Payment Act is a law passed by Congress several years ago because it was very distressed over the government's tendency to pay its bills late. And when you are a vendor who sells goods or services or provides goods or services to the government, you can go out of business waiting for the government to pay you.

And a lot of small businesses were apparently being harmed so the Prompt Payment Act was passed to encourage the government to pay its bills on time and, if it doesn't, to pay an interest rate. Very simple concept.

One of the schools that I work with at Navajo, which is a very large school, was expecting to receive its grant payment, or one-half of its grant payment, on July 1, 1991, pursuant to a law enacted by this Congress that said pay July 1.

That payment got caught up in a real mess of a financial system and was not supplied to the school until early November, 4 months later. They had to run and elementary and secondary school and dormitory with no new funding coming into that school. You can imagine the havoc that was created there.

In order to try and redress the situation we brought a claim under the Prompt Payment Act and asked that interest be paid on the late installment made by the Bureau to the school. The Interior Board of Contract Appeals gave us a lot of sympathy but no relief. They said it's a grant, it's a grant, it's a grant; we don't care how much it looks like an Indian Self-Determination Act contract, Prompt Payment Act doesn't apply.

This is an appalling situation. If this government can require that other vendors of goods and services to the government be paid on time or receive an interest payment, certainly the same kind of structure should apply when a school board that is trying to discharge this country's responsibility of educating children is paid on a late basis. We need an incentive to make sure those payments are made on time and we would ask that the Prompt Payment Act be expressly made applicable to funds that are due to tribal school boards under our entitlements proposal.

For the committee's information, we attached a copy of that decision from the Interior Board of Contract Appeals to our testimony.

I would like to just briefly touch upon a few other matters and then I will turn the microphone over to Mr. Thompson.

Another maybe relatively minor but important matter that we would like to ask the committee's assistance on is helping us meet the match requirements that a lot of Federal grant programs require.

When you apply for a Federal education grant it is often a requirement that the applicant be able to put up part of the funding needed for the program itself and, generally, it is required that that match requirement come from non-Federal sources.

The wisdom and the purpose of that match requirement is quite apparent and certainly we don't have any objection to it from a policy perspective; it is just that when the term non-Federal sources is attached to that all of the funding for the BIA-funded schools comes from Federal sources so that is the only source of information they have to use to meet those match requirements.

Because we don't get funding from State legislatures or from local taxes or any of the sources that State and local governments provide to the public school system, we would propose that when those match requirements appear the funding that the schools receive from the BIA would be deemed to be non-Federal sources.

What the BIA provides to the schools is the equivalent of what State legislators or local tax base provides to a public school and we would just like to be put on equal footing there so that we can equally compete for Federal education grants.

Dr. Butterfield has mentioned our request that Bureau-funded schools be included in other Federal grant programs expressly and I would just like to say that ANCCSB endorses that position and fully supports NIEA on that.

I would like to make just a few comments too about the Bilingual Education Act amendments that we are requesting.

One of the requirements for the Bilingual Education Act is that the applicant show the capacity to build on the program that it wants to operate under a bilingual education grant. That is a very difficult requirement for some of the BIA schools to meet when they don't know from year to year if they are going to be getting a routine funding source.

For instance, this year if you had a bilingual education grant application and you had to pledge to devote continuing resources to that grant after your grant period expired in order to build the capacity to continue that grant, and you were at the same time faced with a $240 lower per student allowance, there is no way you could demonstrate or meet that capacity-building requirement.

Therefore, we would ask that the Bureau-funded system be relieved of the capacity-building requirement until such time as the

WSU base is brought up to the equivalent of $3,499 for 2 consecutive years within the next 4 years so that if it is brought up that level which is already deemed by the task force to be a reasonable level for funding then we can, like everyone else that applies for the bilingual grants, endeavor to meet our capacity-building requirements.

One final subject, and that is last year the Department of Education had inquired of the public whether it would support a separation of the Chapter One program to public schools from the Chapter One program providing funding to the Bureau-funded system.

The way it works right now is that the Secretary of Education transfers the Indian allotment over to the Secretary of the Interior to be distributed to the schools in Bureau-funded system. The proposal was that the appropriation should go directly to the Secretary of the Interior and that a separate appropriation be created and that it not flow through the Department of Education any longer.

We would oppose this for the following reasons. While the present system has not been totally trouble-free in the past, I think it's what, 30 years now since we have had Chapter One, it has worked well enough and to abandon that system now would cause more problems than it would solve.

It is, I think, frankly in the interest of the Chapter One program to have the same law apply to it, the same funding source apply, and the same regulations apply.

If the program were broken off and moved over to the Department of the Interior we would have to undergo a whole raft of regulations drafting. Right now there are not separate BIA Chapter One regulations. Certain of the existing Department of Education Chapter One regulations are made applicable through the memorandum of agreement, but if the Bureau had to sit down and draft Chapter One regulations it would take us years and it would not improve the program any, in my opinion. It would not create a programmatic improvement.

So for primarily pragmatic reasons and to hold the Chapter One program together so that Indian children are benefited by the same provisions that children in public schools are, we would recommend that if that proposal is made by the current Department of Education we would oppose it.

And the same situation would apply with the education of the handicapped program. Those funds also flow over to the Bureau of Indian Affairs through a memorandum of agreement and, rather than have to sit down and draft new regulations, we would think that the current system is the preferred course.

Thank you, sir.

[The prepared statement of Ms. Carol Barbero follows:]

TESTIMONY OF
CAROL L. BARBERO ON BEHALF OF THE ASSOCIATION OF NAVAJO COMMUNITY CONTROLLED SCHOOL BOARDS
REGARDING
ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

April 27, 1993

Mr. Chairman and Members of the Subcommittee:

My name is Carol Barbero. I am counsel to the Association of Navajo Community Controlled School Boards, an association of 12 Bureau of Indian Affairs-funded schools on the Navajo Reservation in Arizona and New Mexico which are operated by tribal school boards under contracts or grants from the BIA. The Association, which we call ANCCSB ("anks-ba"), has asked me to testify on the principal laws that apply to the BIA-funded school system.

ANCCSB has supplied Committee staff with drafts of proposed legislative amendments, as requested several months ago by the Committee. Many of these amendments were developed in consultation with the National Indian Education Association, also a witness here today, as well as educators from various tribes with BIA-funded schools on their reservations.

Mr. Chairman, before I begin my testimony, I want to make a general observation. ANCCSB has identified several problems with the current BIA school operations system. Where possible, we have tried to develop solutions to overcome those problems, or to at least suggest a course of action that could lead to solutions or improvements. We ask that both the problems we highlight as well as the solutions we suggest be evaluated. If you disagree with a recommended solution, we would ask that you not stop there. Please work with us to design a solution that you *can* accept. The problems with this system are too significant to go unanswered.

Snapshot of BIA-funded School System. The 182 (soon to be 184) elementary and secondary schools and dormitories in the BIA system are totally federally funded. They are not part of any state public school system. Enrollment today stands at 43,700 students, but 9649 of these students receive both instructional and boarding services. Since both services are funded from the same source, it would probably be more accurate to say that an equivalent of 53,349 students are being served by this program.

BIA schools are scattered throughout 22 states. Arizona has the most -- 54. And Arizona and New Mexico together account for 99 of the 182 schools. The Navajo Reservation (which extends into portions of Arizona, New Mexico and Utah) has more schools than any other, hosting 67 of the 182 schools.

Almost half of the schools and dorms are operated by tribes and tribal school boards with personnel they hire. There are two methods for tribal operation: Indian Self-Determination Act contracts or Tribally Controlled School Grants. Both vehicles give the tribal organization the operational control of the school, but the level of BIA involvement differs between the two methods. The rest of the schools and dorms are operated directly by the BIA with administrators and teachers who are federal employees.

School enrollment ranges from 12 at Promise Day School to more than 700 at Pine Ridge School; both are in South Dakota. Some schools are elementary only, some are high school only, some serve K-12, some are dormitories, only, and some are boarding school which provide both instructional and residential services. The schools serve some 60 tribes. Almost all are in isolated reservation areas, and, as such, are often the focal point of their communities.

Enrollment in this system has been growing over the past 4 years. The current school year population stands nearly 5% higher than last year's. It is estimated that this system educates approximately 11% of the Indian children who are enrolled in school. Most are in public schools and some attend private schools. We do not have good statistics on the percentage of Indian children of school age who are not enrolled in any school. According to the Navajo Division of Education, that percentage could be as high as 25% for children in the Navajo Nation.

In many areas, school and dorm facilities are in deplorable condition. More than 60 schools and dorms have applied for new construction. Congress, for the past two years, has demonstrated a commitment to replacing the old, outdated, unsafe buildings by increasing the appropriation for new school construction. This enhanced level of commitment has enabled about four new construction projects to start each year. We are grateful for this commitment, but even at this rate, it will take more than ten years for some applicants to receive funding. The FY94 BIA budget request seeks only enough funds to start one new school.

In addition, the backlog of facilities repair projects reaches or exceeds about $500 million, according to Interior Department estimates. It is hard to tell if this estimate is even accurate any longer, as many of the projects have been on the list for so long that the conditions may well have worsened and the costs of repair are likely far higher.

Despite all this, many schools are bursting at the seams. Even those schools that are in good condition now need or will soon need expansion assistance if they are to accommodate the growing ranks of young Indian children in their communities. There is a high birth rate in Indian country, and we need school space to accommodate them. There is also a high dropout rate among Indian students. The Education Department's Indian Nations at Risk Task Force reports that in 1980, the dropout rate for Indian children in 10th grade was 36%, higher than for any other ethnic group.

I point this out to illustrate what some BIA system school directors have told me: *The system depends on dropouts.* If all Indian children of school age enrolled in and stayed in school, we would not have room for them because our buildings are so crowded. And we would certainly not have the funds with which to educate them, at least not from the budget requests designed by the BIA for the past several years.

Critical Funding Problem of BIA System Schools. While these schools are geographically scattered, culturally disparate (serving some 60 different tribes), and of varying sizes and states of repair, they have at least one stark circumstance in common: a critical funding problem. If these schools are to be viable, Congress must change the method by which funding is supplied to them.

This Committee is not a stranger to this problem. In fact, the Education and Labor Committee has been at the forefront of several attempts to put the BIA school system on a sounder footing, and has spearheaded many improvements in that system over the past 15 years. We are very grateful for the positive role assumed by the Committee; frankly, I am not sure the system would have survived without it. This Committee has demonstrated its commitment to Indian self-determination in education many times over. That is why we are coming to you again for help.

What is wrong with the current funding method? The answer: the funding level is *inadequate;* it comes in *fluctuating, unpredictable* amounts; and it is generally *untimely* supplied.

The Committee has addressed all three problems in the past. In 1978, in P.L. 95-561, it ordered BIA to establish a formula to equalize the funding supplied to each school. This was intended correct the then-existing system by which the BIA unilaterally decided how much each school would get each year. The amounts were uneven and often irrational. The resulting Indian School Equalization Formula (ISEF) instituted the method of providing funds on the basis of a school's total "weighted student units" (WSU). This was a tremendous improvement.

Then, in 1885, this Committee authorized "forward funding" for the BIA system. It recognized that appropriations decisions for most federal aid to education programs -- like Chapter 1 -- are made in advance, and the monies are made available for obligation in July of the fiscal year for which appropriated. The intent here was to appropriate funds in October, identify the amount due to each school during the next 9 months, make announcements to the schools so they can plan, and distribute funds in July. Schools supported and applauded this action.

In 1990, Congress appropriated the one-time extra funding needed to convert from the October-September fiscal period to the new July-June period. School year 91-92 was the first year of experience. This transition year was a learning experience for BIA and the schools, and some major problems in spending patterns and in getting timely funding to schools were experienced.

Our second year -- SY92-93 -- has been a disaster, and without funding relief, SY93-94 will be even worse. This is not the fault of the "forward funding" concept. It is the fault of budget requests that are too low to adequately support the schools and students in the system. *This chronic problem remains. It will not be corrected unless and until the law establishes a better method for determining the level of funding need, and assuring that funds in that amount are supplied to the schools on a date certain.*

Doubtless the Committee is aware of the immediate funding crisis facing the BIA school system. Appropriations for SY92-93 ISEF were so low that the value of each WSU is $240 less than last year. When you are a small, isolated school that is inadequately funded to begin with, a drop from $2834 to $2594[1] per WSU is a severe blow, indeed.

This dramatic shortfall was precipitated primarily by two events: First, the BIA's FY92 budget request for ISEF was unconscionably low, and did not include the third phase of the teacher salary increase that Congress had ordered in P.L. 100-297.[2]

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[1] Contrast both of these figures with the $3499/WSU recommended by a blue ribbon task force that studied the ISEF in 1991. This task force was comprised of educators from tribally-operated schools and BIA-operated schools, BIA education officials, staff members from the Education & Labor Committee and the Senate Indian Committee, and outside education experts.

[2] In P.L. 100-297, Congress ordered that teacher salaries in BIA system schools be set at the rate paid in the DOD Overseas Schools System. The disparity between the disparity between the two systems was so drastic, however, that it could not be bridged in one year. Thus, Congress ordered that funding for the higher salaries be phased in over a three-year period. Funding for the first phase was requested in FY90 (for SY89-90), and for the second phase in FY91 (for SY90-91). See attached chart analyzing ISEF funding. The FY92 BIA budget request erroneously stated:

> "School year 1990-1991 was the end of the three year phase-in to increase teacher salaries to the rates paid by the Department of

Second, enrollment at BIA-funded schools increased by nearly 5% between SY91-91 and SY92-93. While enrollment has been steadily increasing over the past several years, those who developed the budget for FY92 projected an unrealistically small increase in enrollment. Thus, what was a very slim budget to begin with had to be spread even more thinly over a far larger student population. This precipitated the current crisis.

And adding further hardship is the 35% shortfall in funding for administrative costs for the schools operated by tribal schools boards. As if the funding shortage were not bad enough, the BIA did not even let the schools know what the payment level would be until six months into the school year. Thus, many schools were incurring cost at the rate dictated by the formula, and got the surprise of their lives when they were informed in February that there was only enough money for 65% of need.

At the current rate of enrollment growth, we estimate that for SY93-94 (which starts this July) the ISEF budget will only provide $2620/WSU, or $214 less than two school years ago. And the administrative cost shortfall will be at least 25%. This FY93 appropriation, too, was based on an unrealistically low BIA budget request.

We had hoped that the funding requested in the President's Economic Stimulus Package for BIA education would help us weather the storm for this and the next school year. The defeat of that package by the Senate dashed these hopes. We will see some schools close early; we will see others drastically curtail their programs by laying off staff; we will see schools curtail their food budgets; others will operate in a deficit posture in defiance of the Anti-Deficiency Act. In short, we will witness the federal government's breach of its commitment to the Indian children in these schools.

Early closings and curtailment of programs would also violate the law Congress passed in 1988, as drafted by this Committee. In an effort to overcome the then-powers in the Interior department who wanted to abolish the BIA schools, The Committee put language in P.L. 100-297 which prohibited BIA from closing any school, substantially curtailing the program at any school, or transferring any school to a state public system

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Defense overseas school system, as authorized by P.L. 100-297."

FY92 BIA Budget Justification, at 215. The impact of this failure to include the third salary increase installment was intense: The schools, particularly those operated by BIA with federal employees, were required by law to pay DOD salary rates but were not provided with sufficient funding to do so. Thus, you will find that at many BIA schools, personnel costs constitute 90+% of the budget. This leaves very little funding for other essential aspects of a school curriculum such a text books, equipment and other teaching materials, supplies, etc.

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without advance notice to and consent from the affected tribe. Each school that is forced to close early or forced to substantially curtail its program will place BIA in violation of this law.

We now have an Interior Secretary who has made an affirmative commitment to these schools. He backed up that commitment by successfully advocating that the President include $48.8 million for their SY92-93 and 93-94 operations in his Economic Stimulus Package. The death of the ESP, however, means that he will be faced with the choice between violating the law against closure and violating the Anti-Deficiency Act.

We implore this Committee to again come to the aid of these Indian schools by advocating the enactment of an emergency supplemental appropriation for their survival. We urge you to ask the President and the House Interior Appropriations Subcommittee to propose a $48.8 million supplemental as soon as possible.

ANCCSB Proposal for Better Funding Method. Mr. Chairman, BIA system school administrators have been living from hand to mouth for too many years. The slow death-by-budget of this school system cannot continue. A whole generation of Indian children are being educationally shortchanged. These children entered this school system in reliance on the Federal Government that operates it, and their Government is failing them.

We need a drastic overhaul of this system. It should be replaced with one that removes the educational welfare of these Indian children from the uncertainties and vulnerabilities of the political budget-development process.

We proposed that the BIA-funded school system be converted to *entitlement program status*.

We make this recommendation in full awareness that Congress and the President are seeking to cut entitlements, not create new ones. But as this Committee is more aware than anyone, the other alternatives we have tried in order to get this system on sound footing have not succeeded. And the fact that the Federal Government is responsible for this school system demands that it take appropriate steps to more properly perform its responsibilities.

Highlights of the Proposal. The full description of our proposal is set out in the attached concept paper which we have previously supplied to Committee staff for study. The highlights of the proposal are:

•On July 1 of each year, the Treasury Department would make payments to each BIA system school board in an amount representing its funding allowance for the soon-to-start school year for the following programs: instructional, residential (for boarding facilities, only), student transportation, and administrative cost grants (tribally-operated schools, only).

•The amount of the **instructional** (and **residential**, as applicable) program payment would be calculated as follows:

> first year: $3499 per WSU. [This is the rate recommended by the blue ribbon Task Force that studied the ISEF funding needs in 1991.]
>
> second and subsequent years: Adjust the $3499 per WSU in accord with the salary increase provided to teachers in the Department of Defense Overseas Schools (as required by 25 USC §2011(h)), and the COLA for elementary and secondary education, as determined by the Congressional Budget Office.

The amount provided to each school would be based on the number of WSUs certified for each school for the immediately preceding school year.

•The amount of the **student transportation** program payment would be set at the nationwide average cost per mile for student transportation. The amount provided to each school would be calculated on the number of student transportation miles incurred in the immediately preceding school year.

•The amount of the **Administrative Cost Grants** for tribally-operated schools would be calculated pursuant to the formula set out in existing law (25 USC §2008a).

•We recommend using student count (WSU) and transportation figures from the immediately preceding school year so that each school's amount can be easily calculated by July 1. (The current system utilizes a student and mileage count made in the last week of September of the school year. This, of course, delays calculations and payments for several months into the school year.)

•Make the Prompt Payment Act applicable to payments due to schools operated under Indian Self-Determination Act contracts and Tribally Controlled School Grants. Tribal contractors and grantees should be treated like other federal government contractors with regard to time of payment. Where Congress has ordered that payments be made on a date certain (as it has in the Tribally Controlled School Grants Act), payment should be made on that date. If not, the recipient should be paid interest, under the Prompt Payment Act, for late payment, as is the case with other contractors who provide goods and services to the United States.

It is necessary to expressly provide this in the law, as the Interior Board of Contract Appeals has recently held that the Prompt Payment Act does not apply to a tribal school board that operates a school under the Tribally Controlled School Grants Act, despite the fact that Congress order that such schools be paid on expressly specified dates. See *Rough Rock Community School v. Bureau of Indian Affairs*, IBCA-3037 (Feb. 12, 1993).[3]

Budgetary Impact of the Proposal. Our detailed concept paper estimates the additional funding that would be needed in the first year of the entitlement status were achieved. These calculations show that the estimated first year cost of the new proposal would be $350.95 million, as compared with the FY93 appropriation for SY93-94 of $255.2 million. This is an addition of +$95.75 million. [If the President's Economic Stimulus Package has been adopted by both Houses, the increase would have been +$69.5 million.]

In comparison with other entitlements/mandatory spending programs, this one would be miniscule. According to data from the Congressional Reference Service for FY92 outlays, the first year of the program we propose would constitute .04% of all mandatory spending.[4] This percentage would likely be even lower if compared with FY93 outlays.

Non-Budgetary Impacts of the Proposal. We hope you will not end your analysis with only a consideration of the budgetary impacts of the proposal. The educational, social, moral and political policies that would be served cannot be overlooked.

The United States has a special relationship with Indian people emanating from the Constitution, treaties, and laws enacted for their benefit. Among the treaty obligations assumed by the federal government was the education of Indian children. This obligation has been pursued for decades both before and after the creation of the Bureau of Indian Affairs. In more recent years, Congress has enacted specific laws which spell out how it wants this obligation to be performed within the BIA school system. (The principal ones were P.L. 95-561 enacted in 1978 and P.L. 100-297 enacted in 1988.)

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[3] In that case, the Rough Rock School Board was supposed to receive $2.4 million for its school operations on July 1, 1991, but the BIA did not supply these funds until over 4 months later -- on November 4. This unconscionable delay in meeting a statutorily-imposed deadline created havoc at that school which, in the meantime, had to meet payroll for personnel, pay vendors, and was deprived of the interest income expressly allowed to it by law (25 USC $2507(b).

[4] CRS reports that FY92 mandatory spending outlays for FY92 totaled more than $708 billion. 21 of these programs had outlays of $1 billion or more and accounted for 97% of all mandatory spending. Our BIA education proposal would be in that small group of 3% of mandatory spending with less than $1 billion per year in outlays.

Having assumed this education obligation, it is the moral duty of the United States to discharge it in a first-rate manner. Sadly, this has not yet been achieved. This Committee and the Congress have, through legislation, improved the bureaucratic management and operation of the BIA school system and made it possible for tribes to operated these schools themselves if they so desire. But the full obligation will not be met until the schools are *properly funded*.

We do not mean to overlook the contributions made by the Appropriations Committees to this school system. In recent years, the Appropriations panels, recognizing the inadequacy of the BIA budget request, have added funding to ISEF, transportation, Administrative Cost Grants, and facilities budget line items. Without this assistance, the system would be in even greater distress, if that can be imagined.

The encouragement of Indian self-determination has been the consistent policy of the federal government since 1975 when the Indian Self-Determination and Educational Assistance Act was passed. As a result of this policy, 88 schools are now operated by tribal organizations. But the promise of Indian self-determination is broken when insufficient funds for the administrative costs incurred by these tribal school are paid at only a fraction of what the law directs.

It is in our country's direct interest to properly fund and run these Indian schools. It is well-established that every dollar spent to educate a child turns a 400-500% return in the form of a productive, self-reliant, tax-paying adult who does not have to depend upon society for such things as welfare and food stamps. This oft-repeated adage is still sound advice:

**"If you think education is expensive,
try ignorance."**

Cost Needs Analysis. The Indian School Equalization Formula has been in use for over 10 years. Perhaps at its inception it was a method for identifying the level of *need* for the BIA school system, but it no longer is. Rather, it is now solely a method for *distributing* the funds Congress appropriates.

Recognizing this, we support Chairman Kildee's proposal to have a needs analysis performed for each of the schools and dormitories in the BIA system. Such a provision was contained in last year's Neighborhood Schools Improvement bill, and is in this year's H.R. 92. This information would be very instructive to school boards for their school operations decisions, to the BIA for its budget policy decisions, and to the Congress for its appropriations decisions.

We hope that such a needs analysis can be added to the

President's recently-introduced School Reform bill so that it can be undertaken soon. It should address, at a minimum, cost needs of instructional, residential and transportation programs. If not included in that measure, we would ask this Subcommittee to include it as a provision in reauthorization legislation.

The results of that analysis would, of course, be reported back to Congress. Congress could then determine whether to legislatively establish a new method for calculating the amount of funding to be provided to each BIA-funded school, or to amend the ISEF system, or take other action. In the meantime, however, we strongly urge the Committee to go forward with a conversion to entitlement program status using $3499/WSU as the basis for calculating instructional and residential program payments to schools.

Indian Education Demographics Data. There is a severe shortage of reliable, nationwide data on the demographics of Indians of school age. The absence of a reliable, on-going data collection effort hampers effective short- and long-range planning, particularly in the BIA school system.

Let me explain how. Now that the BIA school operations budget is forward funded, the budget must be developed at least two years in advance. Since funds are distributed on the basis of the student population, accurate budgetary development requires an estimate of the *number of children* who are likely to be enrolled in both schools and dormitories. An underestimate, as shown, will cause a funding shortfall.

But beyond mere numbers of children, the educational circumstances of these children must be surveyed. The ISEF system assigns additional "weights" to special needs such as: learning disabilities; physical handicaps; level of English proficiency; gifted and talented, etc. Unless the weights to be assigned to the student population for these conditions are accurately predicted, budget development becomes a guessing game. And the guessing has invariably been on the low side in order to keep the budget request low.

Thus, we propose that the National Center for Education Statistics be given the task of gathering, on an on-going basis, demographics data on the on/near Indian reservation school-age population. This plan for gathering this information should be developed in consultation with the BIA's Office of Indian Education Programs and tribal school educators. It should be supplied on a regular basis to BIA to aid in budget development.

If this system were in place during recent years, the larger increase in enrollment that occurred in SY92-93 could have been anticipated. In part, this increase resulted from the poor state of the economy in non-reservation areas which. Many Indian people adversely affected by the recession moved back to the reservations. They not only enrolled their children in BIA-funded schools, but many also put their children in BIA-funded dorms so that the children could eat regularly. We believe these kinds of demographic events could be picked up by regular data collection efforts.

Administrative Cost Grants Provision. In P.L. 100-297, this Committee proposed, and Congress adopted, a provision that requires tribally-run schools to be provided with funds for their indirect and administrative costs through the mechanism of an Administrative Cost Grant. 25 USC §2008a. We would ask that the words "subject to the availability of appropriated funds" be stricken from this provision.

The basis for this request is that no such limitation appears in the companion provision in the Indian Self-Determination Act which directs that tribal contractors be supplied with indirect costs and contract support costs incurred as a result of contracting under that law.

The BIA *must* be held accountable to supply the needed amount of funds for administrative operations at schools. Otherwise, a violation of law and transgression of long-standing federal policy occur. The Administrative Cost Grant provision states:

> "Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools." 25 USC §2008a(a)(2).

When insufficient funds are requested (and therefore insufficient funds are appropriated) for AC Grants, schools have no choice but to use their program funds to help make up the shortage. This violates the statutory policy that the AC Grants shall not result in an program funds reduction.

Shortchanging the AC Grant obligation also violates the firm federal policy of encouraging exercise of self-determination rights. These rights are "chilled" when the BIA is unwilling or unable to provide school contractors and grantees with the requisite funds for the costs they incur in the exercise of those rights.

"Match" Requirement for BIA System Schools. Many federal grant programs require the applicant to supply a "match" either in the form of a percentage of the funds needed to operate the grant, or an in-kind contribution of staff or space. Usually, the match must be supplied from non-federal funding sources. BIA system schools are placed at a competitive disadvantage for these grants because all of their funding comes from federal sources. Thus, we propose that the funds received from the BIA be declared "non-federal" for purposes of meeting any federal grant match requirement.

Eligibility of BIA System Schools for Other Federal Education Programs.

Most federal education laws denote the "local educational agency" as the entity eligible to apply for and receive federal grant funds. The Department of Education has held that the statutory definition of "LEA" does not include BIA-funded schools. Thus, these schools are often not eligible to compete for many federal grant programs. We recommend, therefore, that the definition of LEA be revised to include BIA-funded schools in laws for which coverage has not already been provided, but with the proviso that these schools shall not be subject to the jurisdiction of any state education agency other than the Bureau of Indian Affairs (which is considered an SEA for some purposes).

In addition to status as LEAs, BIA-funded schools need s a separate allocation in some federal education laws where the grant money is alloted to the states for distribution to LEAs. Here, the funding should go directly from the DoEd to the BIA-funded schools because they are not part of the state system, and, therefore, would not receive funds from the state. Among the statutes that should be amended are: Chapter 1 concentration grants, Neglected and Delinquent Children grants and Handicapped Children grants; Chapter 2 grants.

Bilingual Education Act. Greater emphasis is needed on training of Native Indian language speakers for bilingual education positions to enhance the pool of professionals capable of teaching non-English speaking Indian children. We believe both certified teachers and teacher aids should be involved in bilingual education activities.

We would also like to see more flexibility in the number of years in which a student may participate in bilingual programs. At present, the Bilingual Education Act limits a student to three years, or, under special circumstances, to five years. On the Navajo reservation, a large percentage of children are in need of teaching assistance in Navajo for several years, particularly those older children who are encouraged to return to school after dropping out.

We would also like to see BIA-funded schools relieved of the "capacity building" requirement. This requires an applicant to show that it has the capacity to build on the program applied for, and to continue operating a program at the same level of service after the grant has been completed. BIA-funded schools cannot demonstrate they can continue this level of commitment because they have no control over the amount of money they get to run their schools, and, as noted above, it is not an adequate amount anyway. We propose that these schools be relieve on the capacity building requirement until the ISEF funding base reaches $3499/WSU for two consecutive years within the next 4 years.

ANCCSB also asks the Committee to extent the special Puerto Rico provision in the Bilingual Education Act to Indian reservations. As you know, Bilingual grant funds may be used for both English and Spanish language training in Puerto Rico. (20 USC §3291(j)) This permission recognizes that Spanish is the native language of Puerto Rico and that it -- along with English -- is the common spoken language there. The identical situation exists with regard to Indian native languages on many reservations, including the Navajo Reservation. Proficiency in the languages of Indian people, as much as the language of our Puerto Rican citizens, deserve to be supported through Bilingual Education Act grants.

Additional Amendments to BIA Education Law. ANCCSB proposed some minor amendments to the BIA education law such as extending full appeal rights to Grant schools (at present, they have the same appeal rights as Indian Self-Determination Act contractors regarding funding disputes, only); and extending to Grant schools the ISDA provision regarding donation of excess and surplus property.

If our entitlements proposal is accepted by the Committee, the section of the law which authorizes payments to schools will require amendment. We have submitted a suggested draft to the staff. In addition, conforming amendment will have to be made to other provisions. If the entitlements proposal is not adopted, we would ask that other amendments be considered such as establishment of a floor of $3499/WSU; a requirement that the Secretary of Interior immediately report to Congress if the WSU base amount falls below a certain level.

Other amendments should be made to the BIA education law to conform its provisions to the now-used forward funding cycle. Many of the current provisions contain time deadlines that pertain to the fiscal year.

Chapter 1; Education of Handicapped Flow-through Funds. BIA-funded schools are eligible for Chapter 1 basic grants. Funds for this are transferred by the Secretary of Education to the Secretary of the Interior through a memorandum of agreement (MOA). This mechanism has been used for decades. Last year, the Department of Education asked for comments on a proposal to separate the BIA Chapter 1 program, and to have the funds appropriated directly to the Interior Department. We do not know whether this idea is under active consideration at the Department of Ed under the Clinton Administration on in this Committee. If so, we would like to repeat our objection to it.

While the current law's MOA mechanism has not been totally trouble-free, all in all it has worked well enough over the years. We see no programmatic improvement to be obtained by separating the BIA schools' Chapter 1 program. Indeed, we believe it is beneficial and less cumbersome to have all Chapter 1 programs operated under the same law and regulations, overseen by the same committees of Congress, and funded by the same funding source.

There is also a pragmatic reason for our position. The BIA does not have separate Chapter 1 regulations. Specific portions of the DoEd regulations are made applicable to the BIA program through the MOA. This has worked reasonably effectively. If the BIA program were separated out, the BIA would have to put its own regulations in place, an effort that would literally take years. This would be a tremendous administrative task, and would demand considerable time from BIA personnel and tribal education personnel, drawing them away from other very pressing matters. Frankly, neither the BIA nor the tribal schools have the time or the funding to devote to such an undertaking. Under the circumstances, there seems to be little, if any, reason to alter the MOA mechanism after nearly 30 years of operation.

BIA schools' funds from the Education of All Handicapped Act are transferred to BIA in a manner similar to that use for Chapter 1. If the Committee or the Department of Education are seeking comments on whether the BIA program should be separated from the DoEd program, we repeat our objection here, too. The reasons are the same as those described above for Chapter 1.

ANALYSIS OF
INDIAN SCHOOL EQUALIZATION FORMULA FUNDING
FOR PERIOD FY83 - FY94

FISCAL YEAR	SCHOOL YEAR	ENROLLMENT	WEIGHTED STUDENT UNITS	$ PER WEIGHTED STUDENT UNIT	COMMENTS
1983	82-83	42,535	75,644	$2014	
1984	83-84	42,825	75,407	$2027	Increase of $13/WSU, or .6%.
1985	84-85	41,991	74,356	$2066	Increase of $39/WSU, or 1.9%.
1986	85-86	40,280	69,899	$2103	Increase of $37/WSU, or 1.8%.
1987	86-87	39,911	68,055	$2230	Increase of $127/WSU, or 6%.
1988	87-88	39,592	67,266	$2399	Increase of $169/WSU, or 7.5.%
1989	88-89	39,381	66,607	$2408	Increase of $9/WSU, or .37%.
1990	89-90	39,791	68,997	$2538	Increase of $130/WSU, or 5.4%. 1st year of 3-year phase-in of teacher salary increase required by PL 100-297.
1991	90-91	40,841	70,408	$2708	Increase of $170/WSU, or 6.7%. 2nd year of 3-year phase-in of teacher salary increase required by PL 100-297.

1991 FF[1]	91-92	41,817	71,615	$2834[2]	Increase of $126/WSU, or 4.65%. Forward funding transition year. Additional amount appropriated to convert to forward funding was determined by Congress, not BIA. Appears that some portion of a 3rd phase of the teacher salary increase is included in this WSU base.
1992	92-93	43,700	77,069	$2594	*Decrease* of $240/WSU or -8.46%. Any 3rd phase of teacher salary increase included in SY91-92 base disappeared. Base amount fell below level of 2 years ago.
1993	93-94	45,885 (est)	80,922 (est)	$2619 (est)	$89 *lower* than base amount of 3 years ago.
1994	94-95	48,179 (est)	84,968 (est)	$2894 (est)	FY94 budget request submitted to Congress April, 1993. Increase of $60/WSU over base of 3 years ago, or .7% increase per year for the 3-year period.

---

[1] "FF" refers to "Forward Funding". In the FY91 appropriations act, Congress appropriated a one-time additional amount of $210 million to convert the funding cycle for BIA system schools from the government fiscal year (October - September) to a July-June cycle that is more compatible with the school year. To effect this change, the equivalent of approximately 83% of a full year appropriation was made available for obligation on July 1, 1991. Together with 17% reserved from the prior year (as was the usual practice under the fiscal year funding cycle), the schools were theoretically supplied with a full year's funding equivalent.

[2] $2834 represents the effective WSU base amount for SY91-92. As noted in the previous footnote, the Forward Funding extra appropriation was for a partial year. It produced $2374/WSU. This amount, together with the 17% reserved from the previous year's WSU base ($2708 x 17% = $460) produces an effective WSU base amount of $2374 for SY91-92.

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United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF CONTRACT APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

APPEAL OF ROUGH ROCK COMMUNITY SCHOOL BOARD

IBCA 3037 — Decided: February 12, 1993

Grant No. GTN 35X 01202 :
Bureau of Indian Affairs : Government Motion for Summary Judgment Sustained; Motion by Appellant Denied

APPEARANCE FOR APPELLANT: Carol L. Barbero, Esq.
Geoffrey D. Strommer, Esq.
Hobbs, Straus, Dean & Wilder
Washington, D.C.

APPEARANCE FOR GOVERNMENT: Thomas O'Hare, Esq.
Department Counsel
Window Rock, Arizona

1. The Board has jurisdiction to decide disputes arising from grants made under the Tribally Controlled Schools Act of 1988, 25 U.S.C. §§ 2501-2511.

2. Grant recipients under the Tribally Controlled Schools Act are not entitled to interest pursuant to the Prompt Payment Act on late payments, because the Prompt Payment Act by its terms applies only to contracts as such; and any payment of interest on the Tribally Controlled Schools Act grants would require express statutory authority, which clearly does not exist.

OPINION BY ADMINISTRATIVE JUDGE PARRETTE

I. Summary

On June 1, 1992, the Board received and docketed an appeal from the Rough Rock Community School Board (Rough Rock), which operated a Bureau of Indian Affairs (BIA)-funded school (the School/appellant) on the Navajo Indian Reservation located at Rough Rock, near Chinle, Arizona. The funding was pursuant to the Tribally Controlled Schools Act of 1988 (TCSA), 25 U.S.C. §§ 2501-2511; and the question on appeal was whether BIA is required by the Prompt Payment Act (PPA), 31 U.S.C. §§ 3901-3906, to pay interest on late grant payments made under the TCSA.

[1] Because the appeal involved a grant rather than a contract, the Board on the same day it docketed the appeal, requested, sua sponte, a briefing from the parties on the issue of its jurisdiction under the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, to decide Indian grant disputes. On July 7, 1992, it received briefs from both parties in support of jurisdiction; and on July 8, 1992, it issued an unpublished Order accepting TCSA grant dispute jurisdiction. For the sake of future appellants, we will state, infra, the reasons for the Board's acceptance of jurisdiction.

Subsequently, on August 6, 1992, the School filed its Complaint, alleging entitlement to interest under the PPA. On September 10, Department counsel filed an Answer denying the applicability of the PPA to TCSA grants. On October 16, the parties wrote to the Board proposing that they submit opposing motions for summary judgment with accompanying briefs, followed by reply briefs, on that issue; and proposing a briefing schedule. By Order dated October 27, the Board accepted the parties' proposal; and, as of January 26, 1993, the briefing had been completed. The purpose of this opinion is to resolve the PPA issue.

As set forth below, the Board concludes that the PPA, in the absence of specific statutory authorization by the Congress, cannot be applied to TCSA grants, since the PPA was intended to apply primarily to procurement contracts; generally applies only to agreements in the form of contracts; and

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contains no provision making it applicable to grants; and the TCSA itself makes no reference to the payment of interest on late grant payments.

II. Background

The appeal was filed to overturn a May 15, 1992, final decision by the BIA Grant Officer (GO) refusing to pay the School an interest penalty under the PPA, and specifically under section 3902(a) thereof, after BIA allegedly had delayed until November 4, 1991, in transmitting the School's initial operating funds, in the amount of $2,406,179, to it—a period of 4 months and 5 days after the July 1, 1991, due date for receipt of funds imposed by Congress in the FY 1991 Interior Appropriations Act, P.L. 101-512, 104 Stat. 1929 (1990). The amount of interest claimed was $71,237.02.

A. Board Jurisdiction Over TCSA Grants

Rough Rock asserts that the Board has jurisdiction over TCSA disputes by virtue of 25 U.S.C. §§ 2508(e) of the TCSA and 450m-1 of the Indian Self-Determination Act (ISDA), 25 U.S.C. § 450; and Department counsel agreed. Section 2508(e) is as follows:

> (e) Exceptions, problems, and disputes
>
> Any exception or problem cited in an audit conducted pursuant to section 2506(b)(2) of this title, any dispute regarding the amount of a grant under section 2504 of this title (and the amount of any funds referred to in that section), any payments to be made under section 2507 of this title, and any dispute involving the amount of, or payment of, the administrative grant under section 2008a of this title shall be handled under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638; 25 U.S.C. 450 et seq.) [Emphasis added.]

The legislative history of this provision indicates that the rules for dispute resolution under the ISDA, which make the CDA applicable to the ISDA, were also intended to apply to the new grant process under the TCSA in

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order to avoid the confusion that could be caused by establishing a new process. See floor remarks of Congressman Kildee on H.R. 5174, which became P.L. 100-427, Cong. Rec., Aug. 9, 1988, at H 6606.

The parties point out that section 2508(e) refers specifically to payment disputes, and that the provisions governing ISDA contract disputes, set forth in 25 U.S.C. § 450m-1 and made applicable by section 2508(e), specifically incorporate the CDA at subsection 450m-1(d). They conclude that the final clause of section 2508(e), read in conjunction with section 450m-1(d), clearly mandates this Board's jurisdiction, asserting that a grantee under the TCSA has the same rights to seek adjudication of disputes that an ISDA contractor has: no more and no less. We are compelled to agree.

But the payment of PPA interest on late TCSA grant payments is another matter.

B. Applicability to the PPA to TCSA Grants

Appellant argues for the necessity of applying the PPA to TCSA grant payments primarily on the basis of public policy--namely, that the purpose of Congress in the PPA was to make sure that when a Federal agency acquired goods or services, the agency would either pay for them promptly or else incur an interest penalty. The operation of BIA-funded schools by Indian Tribes is a service provided to BIA, appellant contends; and the fact that the legal agreement between the Tribe and BIA is in the form of a grant, rather than a contract as such, is immaterial. Thus, appellant says, we must look to Office of Management and Budget (OMB) Circular A-125, which implements the PPA, to determine if there is any reason not to apply the PPA to TCSA grants.

Appellant denies that for a contract to be subject to the PPA and to A-125, it must be a "procurement" contract subject to the Federal Acquisition Regulation (FAR), as the Government contends. Appellant also questions the Government's assumption that ISDA contracts are not covered by the PPA, though it correctly notes that this question is not before the Board.

On the contrary, appellant says, the PPA is an Act of general applicability applying to all entities that fall within the Act's scope, as is the case with other comparable Acts, such as OSHA or ERISA. As long as the entity involved satisfies the definition of "business concern" as used in A-125, as the Rough Rock school does, the PPA applies, appellant avers. Then the only relevant inquiry is whether a TCSA grant is an "enforceable agreement" under that Circular, which appellant says a TCSA grant clearly is. Thus, the School is entitled to interest on the delayed grant payment.

Department counsel does not dispute that the purpose cited by appellant is the reason for the PPA. However, he contends that the fact that the PPA refers specifically to the acquisition of goods or services clearly means that it was intended to apply to procurement contracts as such; and he argues that agreements in the form of grants do not come within that meaning. Neither does the fact that the TCSA incorporates many sections of the ISDA make a school grant an ISDA contract. In fact, counsel argues, since the Congress specifically provided for the use of grants as such in

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the TCSA, at 25 U.S.C. § 2502(d), a grant cannot be considered a contract.

Even if a TCSA grant were a contract under the ISDA, the Government says, the PPA regulations mandated under 31 U.S.C. § 3903 do not apply to ISDA contracts, since they are not procurement contracts. The specific legal relationship between BIA and Rough Rock is simply that of grantor and grantee.

Finally, the Government argues, admitting *arguendo* all of appellant's allegations pertaining to the TCSA and the ISDA, as well as those relating to its economic loss in not being able to use the grant funds as anticipated, the right to the payment of interest by the Government requires a waiver of sovereign immunity, which must be done specifically and expressly by statute. The Government contends that there can be no consent to the waiver of sovereign immunity by implication or by use of ambiguous language in the statute, citing *Library of Congress* v. *Shaw*, 478 U.S. 310, 317-322, 106 S. Ct. 2957, 2962-2965 (1986). Since the PPA applies only to procurement contracts as such, the Government concludes, Congress has not provided for interest on grant funds under the TCSA.

III. *Discussion*

[2] Sympathetic as we may be (and we are) over appellant's loss of income and with the undoubted purposes of the PPA, the TCSA, and the ISDA, the Board believes it has no choice but to declare Department counsel's final argument a winner. We are also inclined to agree with the Government that the PPA, at least in its present form, was intended to apply primarily,

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if not exclusively, to procurement contracts, and not to every form of agreement the Government may enter into, legally binding or otherwise.

In many respects, *Library of Congress*, cited by Department counsel, *supra*, is even a stronger case for the payment of interest than the case before us. In that case, plaintiff below, a Library employee who had been successful in a job-related racial discrimination suit, had sought to include interest as a component of the attorney fees he had incurred in prosecuting his case. The lower court had awarded a 30 percent increase in his attorney fees, based on section 706(k) of the Civil Rights Act, 42 U.S.C. § 2000e-5(k), which allows the prevailing party in such a case a "reasonable attorney's fee as part of the costs" and specifies that "the United States shall be liable for costs the same as a private person."

The Court of Appeals affirmed the lower court on the theory that, although the increased amount was the equivalent of interest, the Congress had expressly waived the Government's immunity by making it liable "the same as a private person."

The Supreme Court, however, in a six to three decision, reversed the circuit court on the ground that in the absence of clear congressional consent to the award of interest, the United States is immune from an interest award. In analyzing whether Congress had waived the immunity of the United States, the Court said that the waiver had to be construed strictly in favor of the sovereign, and that it could not enlarge the waiver beyond what the language required. It added that congressional silence did not permit it to read into the statute the requisite waiver where neither the language used nor the legislative history of the act referred to interest as such; and it noted that policy considerations, "no matter how compelling," are insufficient, standing alone, to waive this immunity. 478 U.S. at 318-321.

In the case before us, the PPA expressly refers to contracts, not to grants; and its legislative history shows, as the Government contends, that the Act's primary application is to procurement contracts, not to various other forms of agreement. The fact that a TCSA grant, and most other forms of agreement, technically are forms of contract is irrelevant in light of the specific language of 25 U.S.C. § 2502(d), which clearly distinguishes between contracts and grants for the purpose of the TCSA.

Thus, we are forced to conclude that the Congress did not have the payment of interest in mind when it enacted the provisions of the TCSA; and we hold that grant recipients are not entitled to interest under the PPA on late payments made pursuant to TCSA grants, because the PPA by its terms applies only to contracts as such and, therefore, any payment of interest on grants would require express statutory authority, which clearly does not now exist.

IV. Decision

Accordingly, the Government's motion for summary judgment is granted, and appellant's motion for summary judgment is denied.

B. Parrette
Bernard V. Parrette
Administrative Judge

I concur:

Herbert Packwood
G. Herbert Packwood
Acting Chief Administrative Judge

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Chairman KILDEE. Thank you very much. Our next witness is Mr. Myron B. Thompson, Kamehameha Schools, Honolulu, Hawaii.

Mr. THOMPSON. Chairman Kildee, is it a pleasure to be before you again, your distinguished committee and our dynamic Congresswoman from Hawaii, Patsy Mink. To all of us here, Dr. Butterfield, Ms. Barbero, from all of us from Hawaii, aloha pumehana ka kou.

My name is Myron Thompson. I am a trustee of the Kamehameha Schools/Bishop Estate. It is in the educational trust which is set up to be able to take care of only 4 percent of the available youngsters in our educational systems throughout the State of Hawaii.

I might add that another 11 percent is being serviced by other private schools in the State of Hawaii so my remarks today will be addressed to the needs of our youngsters of the 85 percent of our youngsters who are in our public school system who are not faring well at all.

I am here basically to—well, before I say that, I have already submitted a long testimony to your committee and I would like to enter it for the record at this time.

Chairman KILDEE. Yes, that would be included entirely in the record.

Mr. THOMPSON. Thank you. I will be summarizing that testimony that I have already submitted; however, Congresswoman Mink and her colleagues, our delegation from Hawaii, in their reply to Secretary Riley, has already summarized my summary but I have traveled a long ways so I think I will present my summary anyway. Thank you.

I am here really today to request the reauthorization of the Native Hawaiian Education Act as part of your action on the Elementary and Secondary Education Act. When Congress enacted the Native Hawaiian Education Act in 1988 it expressly recited the United States government's trust relationship and responsibility for the betterment of Native Hawaiians and the congressional findings on the special educational needs of the Native Hawaiian people.

Since the overthrow of the Hawaiian monarchy exactly 100 years ago the Federal trust relationship has been established in numerous legislation between ourselves and the Congress of the United States. The Native Hawaiians programs were intended to provide significant Federal intervention for the educational and social problems facing the Hawaiian people.

Let me give you just one example of the problems which the general State and Federal programs do not address. The Kamehameha Schools operates traveling preschools which sends teachers and teaching assistants in their vans with teaching aides to different Hawaiian communities to provide twice-weekly instructions to 3- and 4-year-olds.

To get parent involvement and commitment for their child's education the preschool requires the parent to attend with the child. One preschool is located in a housing project, Haleakala, which is notorious for its drug sales.

On one side of a low chain-link fence are the preschool teacher and the teaching assistants are trying to get the 3- and 4-year-olds involved in learning activities. On the other side of the fence drug sales are going on and, despite the obvious distraction, the teacher has to keep the children and their parents focused on the learning activities.

Sometimes a child may come with a mother who is strung out on drugs herself. In that case, the teacher has to prevent this mother from disrupting the entire class and, at the same time, not put down this mother in front of her own child. These are real life experiences with which the teacher has to deal with and she deals with them quite successfully with the help of her community.

Children's needs are not neglected in our program. This traveling preschool program which the Native Hawaiian Education Act supports creates an educational opportunity which would not otherwise exist. The Native Hawaiian Education Act programs in this way provide the financial backing necessary to answer the educational and social needs of Native Hawaiian people.

Statistically, Hawaiians as a group have fared poorly in all socioeconomic conditions compared to their ethnic groups in the State. For example, although Native Hawaiians comprise 22 percent of the school-age population in Hawaii, they comprise a disproportionately high 31 percent of students in special education programs and a disproportionately low 11 percent of students in gifted and talented activities.

The Native Hawaiian Education Assessment Project completed in 1983 identified and documented the educational needs of the Hawaiian people. The assessment produced a list of recommendations which share a common premise. The premise is that if the Native Hawaiian's educational opportunities and performance improved, so too would other socioeconomic factors such as employment and health. A corollary is that these problems must be addressed through Native Hawaiian groups acting in concert with State and Federal agencies.

Congress incorporated these recommendations into the Native Hawaiian Act of 1988. The Federal funding for Native Hawaiian education augments our schools' funds, community support, and the State of Hawaii's assistance in a common partnership effort.

In his proposal, Goals 2000: The Education of America, President Clinton emphasized the importance of cooperation between Federal, State and local departments of education with private organizations to succeed in educating our Nation. The experience of our existing partnership over the last 4 years under the Native Hawaiian Act provides some observations which I want to share with this committee.

First, we feel that prevention is the key. Particularly, emphasis should be put on family planning and early childhood education so that children start school eager and ready to learn. Hawaiian children enter kindergarten with lower vocabulary scores than other children and begin their training at a deficit.

Our family-based education centers, preschools, have obtained dramatic improvements in children's vocabulary scores in the last 4 years. Specifically, Hawaiian children who have not gone through our preschool program score in the tenth and thirteenth percentile under National Peabody Picture Vocabulary Test. The average score in the State of Hawaii is around the sixteenth percentile, but our preschool students score in the twenty-eighth and thirtieth percentile. Vocabulary is one index of a child's readiness of learning and our students are better able to start regular elementary schooling. Our student scores are better than Head Start's students scores in Hawaii.

Second, basic competency skills in English, mathematics and science must be developed. In basic skills achievement tests Hawaiian students continue to perform below the national norms and below the level of other ethnic groups in Hawaii.

Initially, to deal with this problem the Native Hawaiian Education Act focused on the dissemination of a culturally based program, but our experience and the data now suggest that the effort is better directed at programs which develop students' basic skills in core disciplines.

Third, opportunities in higher education must be opened and maintained. Based on 1980 census data, only 9 percent of Native Hawaiians in Hawaii ages 22 to 24 were enrolled in college, compared with a State figure of 18 percent. The national figure was 16 percent overall, 14 percent for Afro-American students in the continental U.S. and 12 percent for Hispanics.

The Native Hawaiian Higher Education demonstration program and the Native Hawaiian Health Professions program was thus enacted to provide financial support and, more importantly, counseling support for Native Hawaiians who want to pursue college and graduate education.

The impediment for Native Hawaiians is not merely financial, but social and cultural. Our counselors utilize peer support and family involvement to help students adjust to the competitive college environment which is at odds with traditional noncompetitive Hawaiian culture.

Our programs have resulted in promising trends. In 1977 Native Hawaiian enrollment in the University of Hawaii system represented only 3.6 percent of the total student body, although Native Hawaiians constituted 22 percent of the total college age group. But by 1992, due to the Federal program, Native Hawaiian enrollment has risen to 11 percent with the chief improvement occurring over the last 4 years.

Furthermore, the college dropout rate for Native Hawaiian students has been reduced over the past 4 years from 50 percent to 10 percent and more Hawaiian students are successfully completing their degree work.

At this rate of improvement, Native Hawaiian students will be proportionately represented in higher education by the year 2000. Let me note that if the Native Hawaiian Education Act college and graduate program is not reauthorized no other Federal program, in our view, would meet this need.

Fourth, educational and health needs are intertwined. The Native Hawaiian health needs study showed that the Hawaiian people suffered disproportionately from diabetes, substance abuse and similar health problems. The risk factors for Native Hawaiians begin even before birth with too many mothers not seeking early prenatal care. As a measure of early intervention and prevention, the Native Hawaiian Education Act helps fund the parent/infant program to educate expectant mothers on prenatal and perinatal health needs. There is no other Federal program that we know of which provides such service.

Fifth, vocational education is vital to provide job skills to students who do not go on to college and professional education. Less than 50 percent of Native Hawaiian adults have a high school diploma. Consequently, without the Carl D. Perkins Vocational Education Act support, many Hawaiian students would be unable to obtain employable training.

For example, our computer program enables our trainees to secure jobs. Their annual salaries they then earned constituted a 279 percent return on the cost of our investment. The Federal funds have also allowed us to increase the enrollment and retention of Native Hawaiians in community college programs. Our program is based on cultural group collaboration. We do not view vocational education as a remedial program. The National Center for Student Retention last year presented our program with the center's 1992 National Retention Excellence Award. Our retention rate was in the rate of 77 percent; the national rate is 50 percent.

In conclusion, profound educational needs still exist for Native Hawaiians which general State or Federal programs do not address. The Native Hawaiian Education Act was the first and only Federal initiative to address the specific educational problems of the Native Hawaiian people.

The recent administration has been hostile to the Native Hawaiian Educational programs and have argued that general programs deal with our needs; however, as this committee is only too well aware, the general programs such as Head Start have never been fully funded. In addition, many of the programs which are unique to Hawaiians and other Native Americans are not recognized by these general programs.

The success of the Native Hawaiian Education Act programs in students' test scores and completion rate speaks for themselves. I can say categorically that if the Native Hawaiian Education Act programs are not reauthorized I don't see any other full program which would help as this one has.

Mr. Chairman, thank you for this opportunity.

[The prepared statement of Mr. Myron B. Thompson follows:]

Testimony

Regarding the Native Hawaiian Education Act

For

The United States House Sub-Committee,
Elementary and Secondary Education

by

Myron B. Thompson, Trustee
Kamehameha Schools/Bernice Pauahi Bishop Estate
Honolulu, Hawaii

April 27, 1993

Mr. Chairman and distinguished committee members, Aloha. My name is Myron Thompson. I am a trustee of Kamehameha Schools/Bernice Pauahi Bishop Estate. I am here today to provide an overview of the Native Hawaiian Education Act, and share what we have learned about the educational needs of the Hawaiian people since the Act was passed in 1988.

It is important to understand that improved educational opportunity is just one of the many inter-related issues facing Native Hawaiians. Statistically, Hawaiians, as a group, have fared poorly in all socio-economic conditions compared to other ethnic groups in the state. The Native Hawaiian Education Assessment Project, completed in 1983, was an effort to identify and address the educational needs of the Hawaiian people.

The premise was that if Native Hawaiians' educational opportunities and performance improved, so too would other socio-economic factors, such as employment, substance abuse, and health issues. The Native Hawaiian Education Act initiated major reforms, consisting of five core programs:

- Family Based Education Centers, which include parent-infant education, traveling preschools and center-based preschools;
- The dissemination of Kamehameha's Early Education Program in state public schools;
- The Native Hawaiian Higher Education Demonstration program, which provides financial and counseling support to students pursuing post-high school endeavors;
- A Native Hawaiian special education program;
- And a Native Hawaiian gifted and talented program.

In his proposal "Goals 2000: The Education of America," the president emphasized the importance of cooperation between federal, state and local departments of education and private organizations to succeed in educating our nation. In many Native Hawaiian education programs, this partnership already exists.

Kamehameha Schools/Bishop Estate works with federal and state agencies in programs from pre-natal care to college scholarships, and in many cases, KS/BE actually contributes a majority of the total funding. I would like to share with the committee the progress of some of these partnerships, which may someday serve as models for cooperative education nationwide.

Evaluations of the programs I have listed and continuing educational assessment, over the past five years, have helped me define the educational needs of Native Hawaiians. As you address the reauthorization of the Native Hawaiian Education Act, please consider the following six areas of concern:

First -- Prevention is the key. Particular emphasis should be put on family planning and early childhood education, so that children start school eager and ready to learn.

The risk factors for Native Hawaiians begin even before birth, with too many mothers-to-be not seeking early pr-natal care (Figure 1). Although we make up only 23 percent of the state's population, in 1990 (Figure 2), Native Hawaiians account for 38 percent of all infant deaths and 45 percent of all teenage mothers Hawaiian children also enter kindergarten with lower vocabulary scores than other children, and begin their academic training at a deficit (Figure 3).

Through the Parent-Infant Program offered at the Family Based Education Centers, pregnant mothers are learning ways to nurture the physical, emotional, intellectual and social development of their babies. Traveling and center-based preschools are preparing Hawaiian children for kindergarten and laying the foundation for future academic success.

Kamehameha Schools' preschool programs are seeing dramatic improvement in vocabulary scores among their students. Hawaiian children who have not had the benefit of our programs enter public kindergarten classes scoring in the 10th to 13th percentile on the national Peabody Picture Vocabulary Test (Figure 3). The state average of all children is around the 16th percentile. But children from Kamehameha's early education system score in the 28th to 30th percentile. These early education program are working and their support should be continued and expanded.

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Second – Hawaiian students must develop competency in the basic skills of English and mathematics;

In achievement tests of basic skills, Hawaiian students continue to perform below national norms and other groups in Hawai'i. For example, on the Total Reading subtest of the Stanford Achievement Test administered by the State of Hawai'i Department of Education in the spring of 1991, Hawaiian sixth-grade students scored at the 37th percentile, the lowest of the four major ethnic groups (Figure 4).

Achievement test results show the same kind of decrement in performance of Native Hawaiian students in mathematics at grades 3, 6, 8 and 10. At sixth grade, Hawaiian students score at the 47th percentile on the Total Math subtest of the Stanford Achievement Test. By comparison, Filipino students in Hawai'i score at the 57th percentile, Caucasian students at the 71st percentile, and Japanese students at the 85th percentile (Figure 5). The same layering effect, with Native Hawaiian students scoring the lowest, occurs in other subjects, including science and social science (Figures 6 and 7).

The Kamehameha Elementary Education Program was designed to develop language arts of Hawaiian elementary school students. Initially, the Native Hawaiian Education Act called for the dissemination of this curriculum in public schools throughout the state. But the data now suggests that money would be better spent concentrating on the development of basic skills. As always, constant evaluation and flexibility are critical to ensuring that the money and time being put into each program are most effective.

Third – We should continue to support the increases in college enrollment and completion rates for Native Hawaiians;

Hawaiian students enroll in and complete higher education at rates below their peers. Based on 1980 Census data, shows that only 9% of Native Hawaiians in Hawai'i ages 22 to 24 are enrolled in college, compared with a state figure of 18% (Figure 8). The national figure is 16%; for Blacks on the mainland, 14%; for Hispanics, 12%. The drop in enrollment rates shown in Figure 8 also indicates lower college completion rates for Native Hawaiians.

Showing a positive trend, Hawaiian enrollment rates at the University of Hawai'i have been steadily increasing (Figure 9). Hawaiian students now comprise 11% of the total enrollment in the University of Hawai'i system (four- and two-year schools), and over 6% of the student body at the four-year, baccalaureate-granting Manoa campus. This represents an average increase of approximately 10% per year for the past four years.

Currently, two federally funded scholarship programs, Native Hawaiian Higher Education Demonstration Program and Native Hawaiian Health Professions Scholarship Program, address this need and have certainly contributed the encouraging enrollment figures.

Fourth —That the educational and health needs of Native Hawaiians are intertwined. Education and health go hand in hand and should be addressed simultaneously;

The Native Hawaiian Health Needs Study, E Ola Mau, found that Native Hawaiians had the lowest life expectancy of any group in Hawaii, due to a greater risk of serious illness. Native Hawaiians receive less pre-natal care, fewer health services, and seek medical treatment later in the stages of disease than other groups.

The Native Hawaiian Health Care Improvement Act was passed to address these specific problems, but aspects of the Education Act, such as the Parent-Infant Program, relate directly to health issues facing Native Hawaiians. By the same token, the Healthcare Improvement Act gave us the Native Hawaiian Health Profession Scholarship Program—an educational program aimed at improving the health of Native Hawaiians.

It is particularly important that prenatal care and family planning be included in any early education curriculum. More resources should also be put toward preventing unwanted pregnancies and ensuring that women who are pregnant get the proper health care.

Fifth – Vocational education programs are just as important to the Hawaiian community as programs that promote higher education;

For Native Hawaiians who do not pursue an advanced academic degree, vocational training provides an avenue for the development of a marketable skill, beneficial to the individual and the community. Set-aside funding has been established for Native Hawaiians in the Carl Perkins Vocational Education Act with regard to these programs.

Some of the most successful vocational programs are administered by a Native Hawaiian self-improvement organization called Alu Like, which means "many hands pulling together". Alu Like conducted a state-wide needs assessment, allowing Native Hawaiians to prioritize their own needs. Much of Alu Like's success can be attributed to its culturally appropriate strategies.

Sixth – We must take a comprehensive, culturally sensitive approach to improving educational opportunities for Native Hawaiians.

In 1993 the Hawaiian culture is alive and well. Of all the educational trends I have mentioned, this is perhaps the most positive. Two centuries of rapid change following Captain James Cook's visit to the Hawaiian Islands in 1778 has left a profound sense of culture loss for Native Hawaiians. There was fear that the people and the culture would simply disappear. A resurgence of interest in Hawaiian culture began in the 1960's and has increased through the '90s. While much work remains to be done, an enormous amount of progress has been made. Here is just a sampling of indicators:

* The 1978 State Constitutional Convention established both Hawaiian and English as the official languages of the state. Starting in 1983, seven Hawaiian language immersion preschools, Punana Leo, have opened across the state. The Department of Education now conducts Hawaiian immersion elementary education classes in five schools. Figure 10 shows the rapid growth in enrollment in Hawaiian language immersion programs.

* Hawaiian history and culture are required courses in the Department of Education in the fourth and seventh grades and other courses are offered as electives in high school.

* Thousands of people, Hawaiian and non-Hawaiian, participate annually in events such as the Merrie Monarch Hula Festival in Hilo and the Moloka`i to O`ahu Outrigger Canoe race.

* The voyages of the Hawaiian sailing canoe, Hokule`a, have stimulated interest throughout the Pacific in Polynesian voyaging. They have generated a renewed pride in the navigational feats of the peoples of the Pacific.

The survey revealed that while there was a high degree of interest in Hawaiian culture and history, there was a low degree of applied knowledge. It was determined that programs could be enhanced by including traditional Hawaiian culture and values.

At all levels, Kamehameha Schools' programs that incorporate Hawaiian culture in their curricula have improved student interest and performance. Integrating cultural relevance into federally-funded programs has increased -- and will continue to increase -- their effectiveness in assisting and empowering the Hawaiian people to determine their own future.

Conclusion:

As you can see, profound educational needs still exist for Native Hawaiians. The programs which have grown out of the Native Hawaiian Education Act have had varied success rates, but overall evaluations show improvement in education statistics. Their continued federal support in the key areas identified will ensure that improvement doesn't stop.

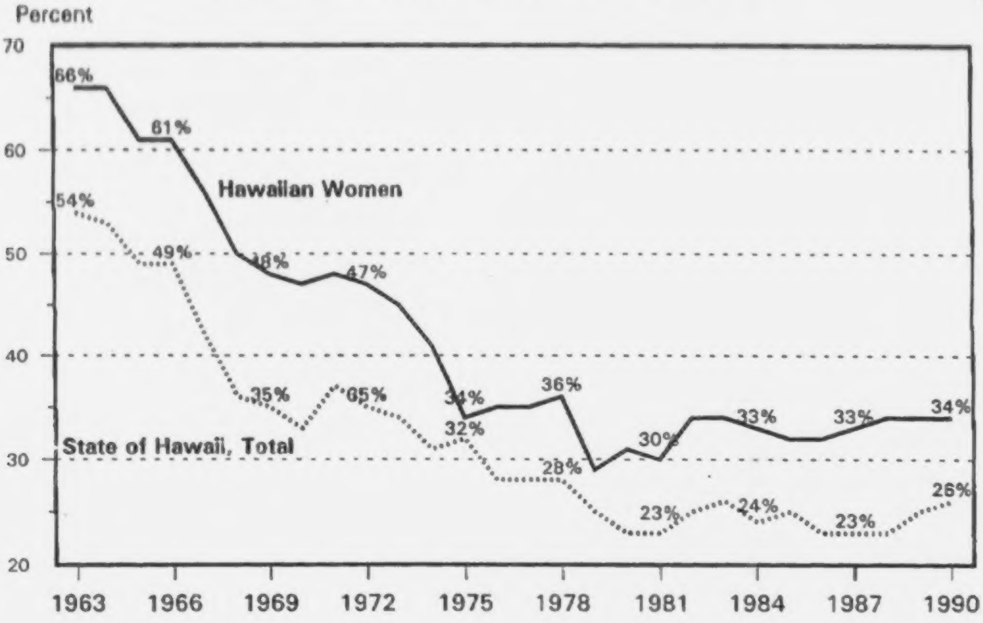
The Education Act has reinforced the importance of early education, including family planning and pre-natal care; has helped illustrate the interdependency of education and health issues of Native Hawaiians; has underscored the importance of vocational as well as higher education; and has demonstrated the value of culturally appropriate program strategies.

The United States Government has an important trust relationship with the Native Hawaiian people. "The Education of America" specifies that special attention be given to Native Americans, as an important component of our country's future. The Native Hawaiian Education Act is a step we've already made in that direction. It is the framework for a partnership between Federal, state and private agents -- all of whom are committed to a common goal: the education of Native Hawaiians.

Over the weekend, Kamehameha Schools/Bishop Estate hosted an Educational Summit in Honolulu, sponsored by the Senate Select Committee on Indian Affairs. From that summit, we expect several specific recommendations on many of the needs I have shared with you today. Along with what we have already accomplished, they may help set further direction for both existing and future programs.

Late or No Prenatal Care

State and Hawaiians, 1963 - 1990



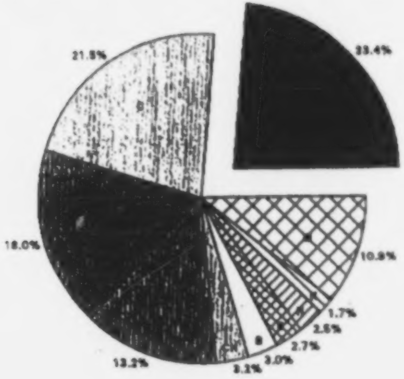
Source: State of Hawaii, Department of Health

KS/BE PEP 3/93

Page 10
Figure 1

72-213 - 93 - 21

Ethnicity of Students Enrolled
by the Hawai`i DOE, 1992-93



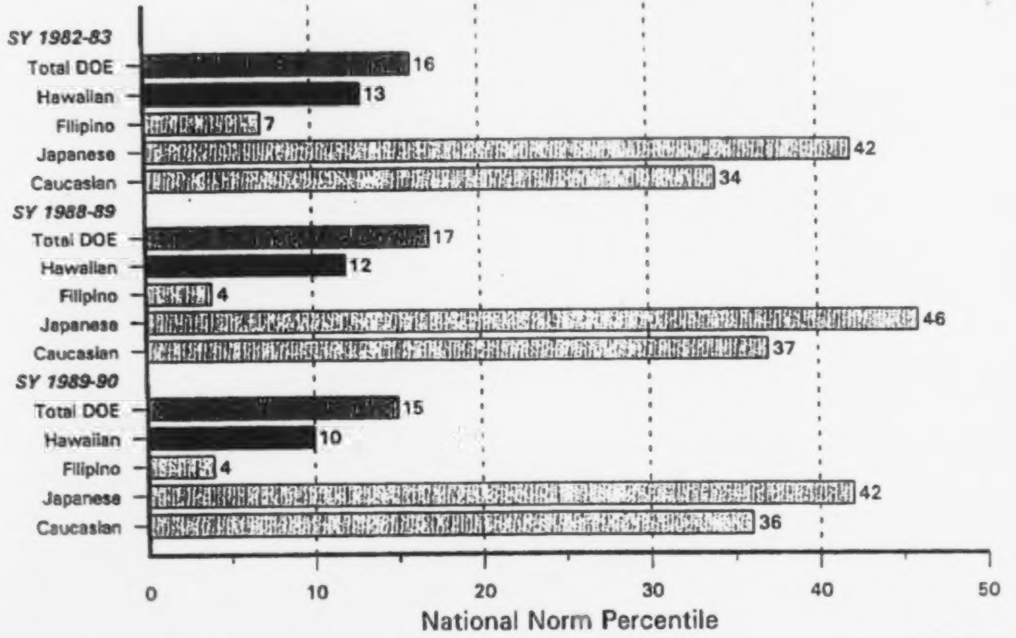
KEY	Ethnicity	Number	Percent
■	Hawaiian	41,477	23.4%
C	Caucasian	38,025	21.5%
■	Filipino	31,945	18.0%
▦	Japanese	23,313	13.2%
CH	Chinese	5,659	3.2%
S	Samoan	5,288	3.0%
B	Black	4,803	2.7%
H	Hispanic	4,404	2.5%
K	Korean	2,943	1.7%
O	Other	19,252	10.9%
	Total Enrollment	177,109	100.0%

Source: State of Hawai`i Department of Education

Page 12
Figure 3

Kindergarten PPVT-R (Vocabulary) National Percentiles

State DOE, Hawaiian, Filipino, Japanese, and Caucasian
School Years 1982-83, 1988-89, 1989-90



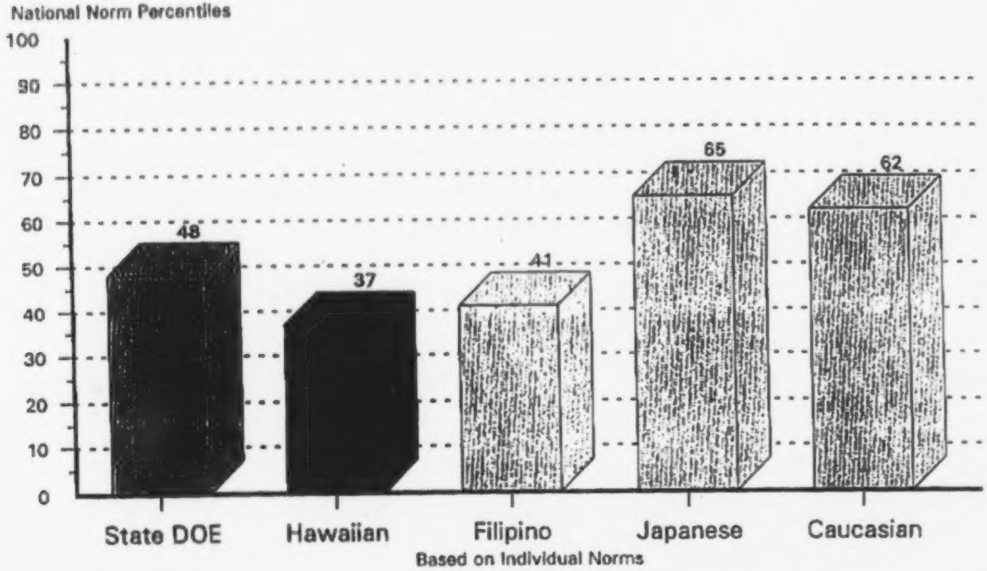
Source: State of Hawai'i Department of Education

KS/BE PEP 3/93

Page 13
Figure 4

Total Reading

Sixth Grade Percentile Ranks
School Year 1990-91

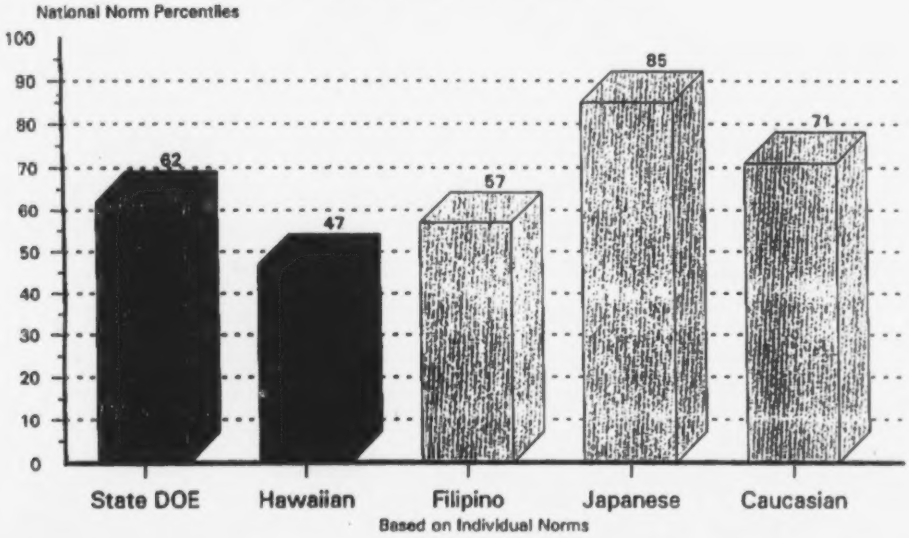


Source: State of Hawai'i Department of Education

KS/BE PEP 3/93

Total Math

Sixth Grade Percentile Ranks
School Year 1990-91



Source: State of Hawai'i Department of Education

KS/BE PEP 3/93

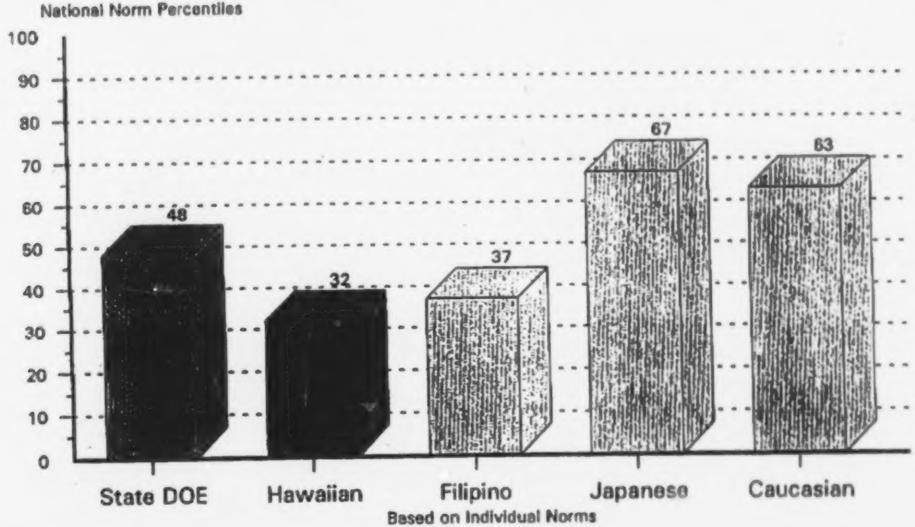
Page 14
Figure 5

Science

Sixth Grade Percentile Ranks

School Year 1990-91

Page 15
Figure 6



Source: State of Hawai'i Department of Education

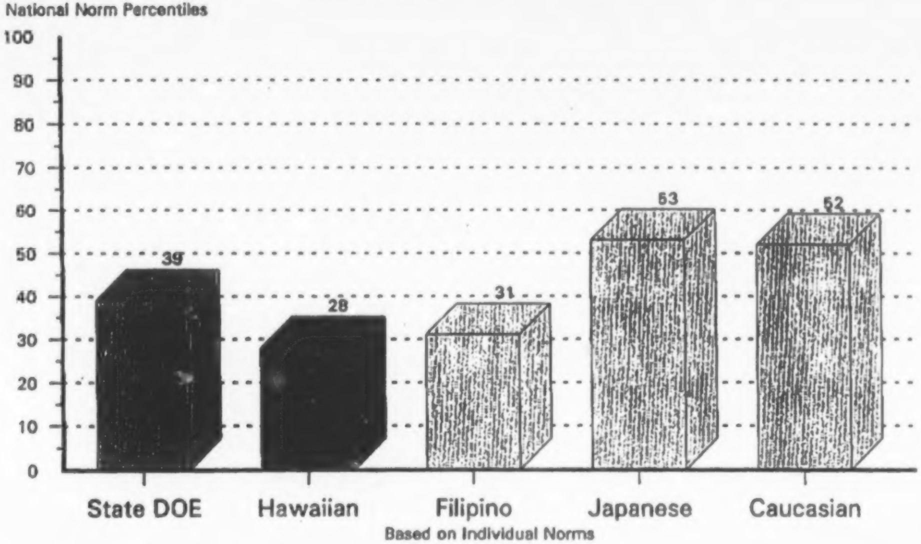
KS/BE PEP 3/93

Page 16
Figure 7

Social Science

Sixth Grade Percentile Ranks

School Year 1990-91



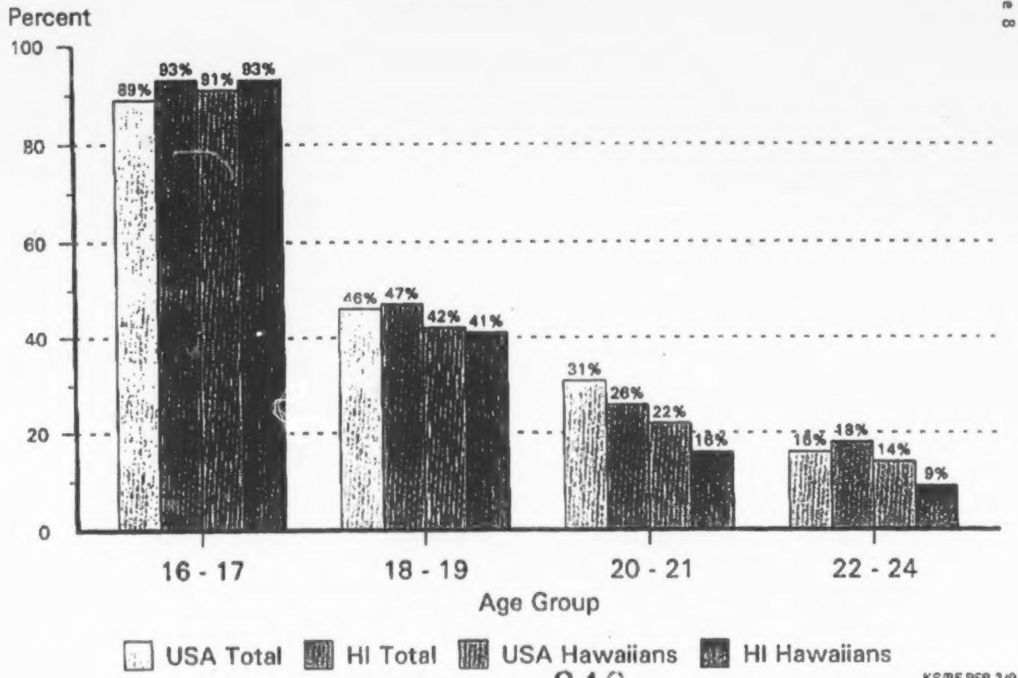
Source: State of Hawai'i Department of Education

KS/BE PEP 3/93

Enrollment in School and College

U.S. Census, 1980

Page 17
Figure 8

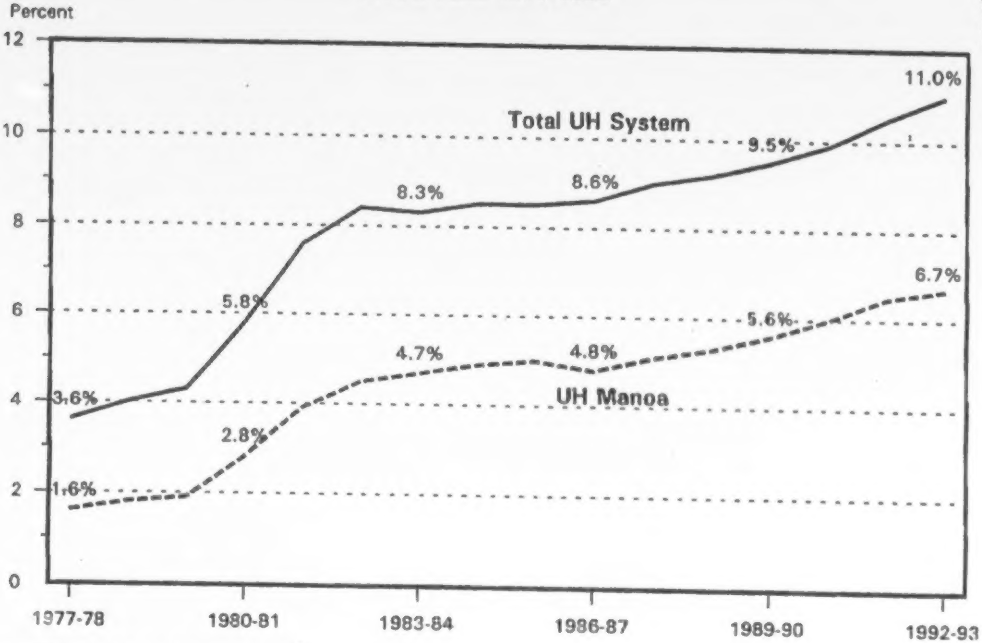


KS/BE PEP 3/93

Hawaiian Enrollment in the University of Hawaii System

School Years 1977-1993

Page 18
Figure 9



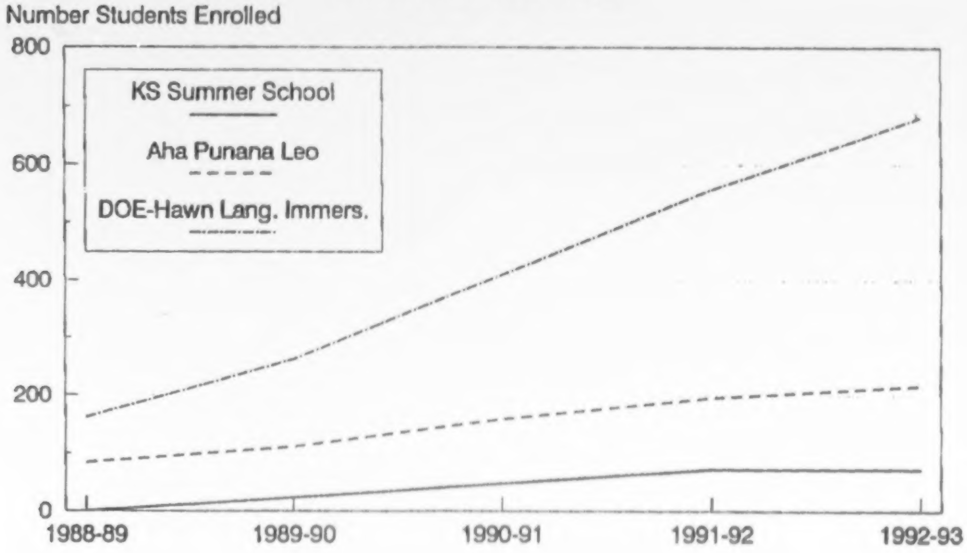
Source: Fall Enrollment Reports (Annually),
Institutional Research Office, University of Hawai'i

KS/BE PEP 3/93

Page 19
Figure 10

Hawaiian Language Immersion Programs

School Years 1988 - 1992



Source: State of Hawai'i Department of Education
Aha Punana Leo, Inc.
KS Summer Programs

KS/BE PEP 3/93

Chairman **Kildee**. I thank you very much, Mr. Thompson, for your testimony. We will start with some questions now. I would like to direct this to Ms. Barbero initially and others can answer if they wish.

I had mentioned earlier that I used to visit the schools and I have seen schools, Indian schools, that I mentioned earlier today where I know a Federal judge would not allow us to keep prisoners, and yet we had Indians attending those schools.

I can recall, matter of fact, I think it was Sky City in Hokama, one of the pueblos in New Mexico I had to push and pressure that they repair the roof and the walls so they could finally repair the floor of the gym, which had become really unusable.

And I think I went out to Baka Navajo school in New Mexico and they had a refrigerator which they had never had hooked up. The BIA would just never hook it up. They finally hooked it up the day before I got there at that time.

Just the neglect, the feeling that this was not a high priority, really has bothered me through the years and I really believe that the BIA has some of the poorest facilities, both with respect to their current state and even their routine maintenance of any school system in the country.

Do you have any idea, ballpark figure, how much money would be required to bring these schools up to some just basic human dignity code, Ms. Barbero?

Ms. **Barbero**. Well, this year's budget request, the fiscal year 1994 budget request, re-recites the estimated facilities improvement and repair backlog of about $550 million. That figure probably though could be up to 10 years old, for all I know, and I don't know if they have run a recent estimate so that I guess we would start there and it is probably considerably higher by now.

You know, a lot of that, or I might speculate that at least some of that, should not be in facility improvement and repair backlog list, that it just isn't cost-effective to repair some of these old buildings, that they ought to be on the new construction list.

New construction, as we all know, is a very expensive thing and even though Congress has made the commitment of about in the tune of about $35 million per year for the past couple of years, that gives us about four new starts.

So the budget request this year is $51 million for facilities improvement and repair, as compared with their self-reported $550 million backlog.

Chairman **Kildee**. So just one-tenth of the figure that has probably grown since that figure was arrived at then?

Ms. **Barbero**. I would suspect so, sir. Yes, sir.

Chairman **Kildee**. One thing I did get involved in over the years and successfully involved in, both here on this committee and during my tenure on the budget committee, was the forward funding for operational costs.

Has that been helpful, the forward funding for the schools?

Ms. **Barbero**. It has in that from the perspective that we can expect the funding on July 1 if they will pay it on time. But forward funding, in order to work—and believe me we are very grateful, sir, for the assistance you have provided in getting that because that has been a goal of the school system for a number of years, but for that to work properly you have to have a decent budget request and, in order to have a decent budget request you have to have decent enrollment projections and we haven't had either: a reasonable budget request or reasonable enrollment projections now for a couple of years.

As a consequence, this current school year that is funded by the fiscal year 1992 appropriation under the forward funding cycle had to be developed a couple of years in advance, and getting a good count of kids and getting a good count of their special needs for the additional weight can be a problem and that is where we want to try and overcome that with a regular demographics data gathering effort from NCES.

But with an honest budget developer, forward funding will be a wonderful gift for these schools.

Chairman KILDEE. With forward funding, of course, you have to have advocacy within the department. In my 17 years here, particularly the last 12 years, there is great advocacy within the Defense Department. I mean Weinberger used to slap Stockman around and say, "I'll tell you how much money we're going to get."

I wish we could find that same advocacy in some agencies of government and, you know, slap the budget director around and say, "This is the kind of money we need." But very often the budget director tells them how much you better ask for and not ask for any more.

And I really would hope that within the Interior Department and within the BIA it would be a good advocacy and really become an annoyance to the OMB and say this is what we need. Weinberger did it well. I mean he grabbed more money than anyone I saw down here and I think I have always tried to get the BIA to become even half as an effective advocate as the Secretary of Defense we'd be a lot better off than they are. I would like to see them just as effective.

Ms. BARBERO. I agree.

Chairman KILDEE. Because of forward funding, as you say, I'm glad we were able to restructure that because otherwise we would have no idea how much money that should be delivered on time and it should be based upon really the real needs on that.

I have worked with that on this committee, worked for that on Budget Committee, so we could give Sid Yates the power to be able to really have the money to do that forward funding. We had one year I think we had to actually double-appropriate to give him that.

Ms. BARBERO. That's right. We needed in 1983 or 1989 to present additional appropriation for the conversion.

Chairman KILDEE. And I carried that in the Budget Committee to make sure that was done, but we do need advocacy.

Let me ask this question. Anyone else have any response on that? Dr. Butterfield?

Mr. BUTTERFIELD. I would add that while your question addressed the Bureau schools that the same condition exists through the impact aid program and that the amount of money that has been appropriated for new school construction obviously is not enough to address the needs. That is somewhere around a quarter of a million dollars or $250 million for the backlog that we are aware of.

As a former superintendent in a school district like that, we struggled a great deal with trying to maintain the buildings that we had. Our buildings were not in terribly bad shape; however, we did not have the year-to-year budget through impact aid to adequately address things like putting a new roof on the building, maintaining the air conditioning and heating systems, and so I would estimate that that is a problem that continues beyond the new school construction and that most impacted school districts that don't have a tax base to levy for new school construction or repair would be faced with the same sort of problems.

You've got a building. Even when it becomes new it's like a new car: as soon as you drive it off the lot it has depreciated. And the buildings are going to do the same thing because the existing year-to-year funding cycles are not sufficient enough in the Indian schools within the Indian impact aid program that would allow them to put enough resources into the maintenance of those buildings so it is a problem in both areas, not just the Bureau schools.

Chairman KILDEE. Mr. Goodling.

Mr. GOODLING. No questions at this time. Thank you.

Chairman KILDEE. Do you have your questions, Patsy?

Mrs. MINK. I have no questions but I want to indicate my wholehearted support for the idea of creating an entitlement for the educational support of all of your schools. I think that the appalling statistics that you have just rendered to the committee more than underscore the necessity for some kind of a stabilized funding mechanism.

I question whether the $3,500 per child figure is really adequate and I think it would assist those of us who support this idea if we could get some more detailed formulation of how that entitlement would work and how it would be adjusted each year.

The entitlement concepts should not be based upon a stationary formula. It has to have a component in it which would allow it to grow and to adjust based on some other outside national statistic and I think it is high time that we did something like that.

Ms. BARBERO. Thank you, Mrs. Mink. We appreciate your support and your point is absolutely correct that the concept has to have an adjustment mechanism in it.

The adjustment mechanism that we are recommending really comes out, again, from this committee's activity 5 years ago in Public Law 102-97.

The Bureau of Indian Affairs teacher salary structure was to be set at the equivalent of the Defense Department teacher salaries that the Chairman recently mentioned have very skilled advocates, and so our proposal is that we start out in the first year with the $3,499 per WSU level and then in subsequent years adjust it in accordance with the DOD salary increases that are announced, I believe, each April so they ought to be coming out with an announcement soon if they haven't already developed it.

And under the theory that 65 percent of a school budget should go to personnel costs we would recommend adjusting 35 percent of the—I mean, excuse me—65 percent of the WSU base in accordance with whatever the salary increase is, and the remaining 35 percent which theoretically goes for textbooks, supplies, equipment and like that, would be adjusted in accordance with CBO's COLA for elementary and secondary education.

Now, of course, next year if Federal employees have a pay freeze, as the President has requested, I believe OMB has already dictated that the teachers in the DOD school system would be subject to that freeze so, therefore, if there is no pay increase for DOD teachers then the same zero level would apply in the BIA system because we are statutorily tied.

Mrs. MINK. Thank you very much. Dr. Thompson, with respect to the new administration's echoing of the justification for not funding the Native Hawaiian education component that you testified to on the basis that they believe, as the previous administration argued, that there were no special needs for our Native Hawaiian children in the State of Hawaii that could not be met by general funding educational support by the State, how would you respond to this explanation which is again repeated in the new budget?

Mr. THOMPSON. If you noted in my presentation, Congresswoman Mink, there was a dramatic improvement in the educational achievements of our young people since the introduction of the Native Hawaiian Education Act. This Act has given us a lot more flexibility to develop our own programs that are culturally sensitive and we can adjust them without going through a great deal of, not harassment, but a great deal of regulations and it has given us the kind of flexibility to meet the needs of our communities.

Mrs. MINK. When you use the word "us" and "we" it gives an indication that this is a separate operation. Would you describe who administers these funds, how it is run, and how it is separated from the DOE?

Mr. THOMPSON. Yes. The "us" is the State Department of Education, the Federal agencies we are working with in relation to education, and the Kamehameha Schools/Bishop Estate.

I mentioned earlier that we are concerned about 85 percent of the young Hawaiians who are out in our public schools system who are not doing as well as the 15 percent who are in our private school system. The kids we've got in our private schools, you know, they are going to make it. We don't worry about them. It is that 85 percent.

So we have decided, we meaning our school, has decided to assist the Department of Education to improve their quality of education at their request and so we have gone out and experimented with them and have come back with the conclusion that in order to support them we need to begin our efforts in preschool, prenatal care particularly, and starting there.

The numbers are clear in relation to the prenatal program—I mean in relation to the preschool program. The numbers are clear in relation to our picking up young people coming out of the high schools and going on to college.

The in-betweens, we've got to continue to work with them. By the way, I have legislation here suggested amendments to the Act which would give us more flexibility to work with the secondary and elementary schoolkids. The legislation that we designed is too restrictive and the results we had hoped for had not come to come around so we are suggesting that that section of the Act be changed.

Mrs. **Mink**. Could you explain just briefly what restrictions you think ought to be loosened so that you would have more flexibility?

Mr. **Thompson**. Okay, yes. As I mentioned earlier, I think it was in item three in which in the legislation it states that our school, with the cooperation of and in conjunction with the Department of Education, would assist in developing their language skills of the youngsters within the elementary schools.

We have experimented with our moneys. We have asked the Federal Government for valuative funds to check that program out and we are finding that the program doesn't work so we are suggesting that and the language in the Act which we helped draft earmarked those funds for our school to utilize with the Department of Education.

We are going to suggest that that language be opened up in order to give flexibility to the Department of Education to develop their own classes.

Mrs. **Mink**. Thank you very much, Dr. Thompson.

Chairman **Kildee**. Ms. English.

Ms. **English**. Thank you, Mr. Chairman. I do appreciate you having this hearing and giving us the opportunity to elevate what I believe is an extremely serious problem to the public and I thank you for the opportunity.

I have a couple of comments and several questions. I heard earlier in the testimony today, Dr. Butterfield, about the Goals 2000 for Native Americans. I am not just a little but a lot unhappy with the Goals 2000 that this committee has worked on and the current administration has worked on in its lack of specificity for what those goals really are. They are lofty. They are vague. I don't believe that they are followed up with appropriate dollars or perhaps the structure to carry out those goals so I am unhappy with those goals.

I think we should have goals but we should have more meat in them. I am concerned because you mentioned, and I haven't seen the goals for the Native Americans, but you mentioned that a similar package has been developed for Native American Indian education.

And the way I see it right now is Indian education has a bigger gap to fill than the non-Indian education so if you are using the same goals and I consider them to be lofty and not without proper funding, then you guys even have a further distance to go and I am very concerned that those goals will never be met under the process we are undertaking.

The comment you made also about America's first citizens is one that I take a little bit of concern about also. I don't believe we should take a look at our children as America's first, second or last citizens but, in fact, they are American children and that they all deserved the same level of educational opportunity no matter what color, when they were born, under what religious affiliation or economic opportunity, that the children deserve a bigger commitment than they are getting right now.

And I would not—I would hesitate to put—I would hesitate using that particular statement as a reason for elevating this issue. The fact of the matter is they are American children and they deserve better and that is just something we have to express to a lot of people all over the Nation.

There are a couple of things that I believe are fundamental problems in the process and I have heard about a lot of bandaids today and, Ms. Barbero, you even mentioned that they were bandaids, that they were short-term fixes for what I believe is a structural problem.

I would like to know from you folks what is the association between Department of Education and the Department of Interior or the Office of Indian Education. What is that association? Dr. Butterfield, if you would start I would appreciate that.

Mr. **BUTTERFIELD**. Well, I appreciate your comments. First off, I think that in trying to be responsive to the initiatives that come forward on a national level when Secretary Cavazos had initially put forward the notion of doing an Indian Nations At Risk report modeled after the Nation At Risk, the group of people involved in that were aware during that process that the governors had put together the six national goals and were trying to respond to that in a fashion that made them fit for Native American people.

Most of us are very aware that if you look at standard achievement levels for native people in this country that they are far below the norms and that our gap is much larger. I am not sure that those goals in their present state for America 2000, if you use that description of it now, those six national goals are attainable given the gap that we have to overcome.

I was a principal above the Arctic circle for 3 years in Inupeiac Village and our average school for a norm was somewhere around the twenty-fifth percentile, give or take some percentage points, and so when you have that big a gap, to make any increases you make of five to six points over any span of time that is short, say a year or two, is a significant increase. The closer you get to the fiftieth percentile the more difficult it is to make larger gains.

So I have concerns about the national goals being attainable for some of the standards that have been set, but I do believe that the ones that were put together through the Indian Nations At Risk were modeled—and I don't have them in front of me to give to the committee—but were made in a best-faith effort to make them fit for our Native American people.

And so, yes, they are difficult. I have some personal problems with them myself but I think it demonstrates yet again that the native people have tried to respond to some of the initiatives and make them fit for themselves in a fashion that would be more appropriate than they do in their present state.

My comment regarding first citizens is a fundamental problem I have personally with the idea that Indian people were not granted citizenship until the 1920s or earlier through the Dawes Act if they were to assume ownership of land on the reservations. I still struggle with that idea historically and so I still believe that as aboriginal people of this country we were this country's first citizens and the kind of treatment that we have gotten in terms of funding, support and/or initiatives that have yo-yoed from decade to decade through Congress have not been good.

And so we are not looking at the proposals we are making to this committee this year as bandaids per se, but ways to make them better than they already are. Certainly there is a long ways to go, particularly through the Bureau schools.

The National Indian Education Association is a strong advocate for the entitlement process. My own personal individual feeling is that the government has created some real problems with the large entitlements through Social Security and medicaid that drive the whole budget process, so much so that some of our proposals for new money are looked at very closely and yet they amount to an infinitesimally small portion of the total budget of this government.

And that bothers me that in the last 15 or so years that the total allocation for the Indian Education Act has struggled to maintain the $50 million range for formula grants and somewhere in the $80 to $70 million dollar range overall for a program that so many, many people across this country that are Native American and Alaskan Native depend on and require.

So when I look at the total budget and think of how hard we have to work it really gives us some real pause there.

Ms. English. Dr. Butterfield, would you—I'm glad we agree on the two points but I have a great concern about the relationship between the Department of Interior and the Department of Education and the level that Indian education is reduced to within the Department of Interior and the relationship and access to Department of Education.

Who do you deal with? Who is the director in the Department of Education that supposedly is the advocate for Indian education?

Mr. Butterfield. Well, right now there is an acting director, John Wade, with the Indian Education Act. That position has not been filled since the departure of John Tippeconnic who went from OIEA to OIEP, which is over in the Department of Interior.

Basically, he shifted from being the director of Indian education programs in the Department of Education to being the director of the Indian education programs in the Department of the Interior.

Ms. English. When did that shift take place?

Mr. Butterfield. I can't remember exactly. It was——

Ms. Barbero. I would guess about 6 to 9 months ago.

Ms. English. So currently there is only someone acting in the capacity for Native American education?

Mr. Butterfield. That is correct. There have been efforts made to find somebody to fill that position; however, there was a great deal of concern that that appointment might be made at the end of the Bush administration's tenure and so there was a hold put on that to make sure that the person that filled that position met the needs of the new administration, the people that would be working in the Department of Education, and so there was some concern and there was a wait on that.

I don't know what the process is right now for speeding that up, but it certainly needs to be done soon. I have serious concerns about that particular office over there in the Department of Education. I have gone over there.

As a public school administrator I find the conditions in that office deplorable. Carpeting is torn up, the offices are extremely crowded, the computers are out of date. There aren't even enough computers for them to do the job to oversee the program nationally.

And while certainly you don't want to necessarily think that it needs to be plush, it is so far from the definition of plush that it is just sad. And I know that that is a Department of Education concern.

Actually, I need to leave pretty soon because I have a meeting at noon at the White House with Ms. Rascoe, domestic policy adviser for President Clinton, and that was one of the things that I wanted to share with them.

But they need some things done there so that they can do a better job of administering the programs that are already in place and I think our recommendations will only strengthen what is existing.

Ms. **English**. Because there is such short time and I did have so many questions, please keep the answers as brief as possible.

Ms. Barbero, is there a working relationship between the Department of Education and the Department of Interior or the Office of Indian Education in the Department of Interior?

Ms. **Barbero**. I would say yes but it is probably spotty, sporadic and subject-oriented. The Chapter 1 office has to work with the Chapter 1 office at the Bureau of Indian Affairs and sometimes that is good. Sometimes it's not so good. I think these days it's pretty good.

With regard to the Office of Indian Education there is probably interaction that depends upon the personalities involved because statutorily they are not connected. They do not share the same statutory mission so one follows its directives under one statute and the other follows its directives under their own.

Ms. **English**. So the two offices do not get together and talk about a more global view of providing better education for their same constituents?

Ms. **Barbero**. Well, Congresswoman, if they do I am not aware of it but I am not a departmental employee so if there are such meetings they very well could go on without those of us in the Indian education community being aware of it.

Ms. **English**. Is there any active pursuit of advice from you folks from the Department of Education——

Mr. **Butterfield**. Well, I am aware that——

Ms. **English**. [continuing] in policy types of decisions?

Mr. **Butterfield**. Congresswoman, I know that since the director of OIEP over in the Department of Interior for the Bureau schools, Dr. Tippeconnic, is very familiar, obviously, having been in the Department of Education previously, of programs in place there and is very supportive of the kinds of flow-through dollars that come from DOE to DOI and the Bureau schools and he does call and talk to John Wade from time to time so they are familiar with each other and the programs that they put in place. But I would think that some stronger communication mechanisms could be worked on to improve that relationship and, particularly, whenever the new director comes on board.

Chairman **Kildee**. I can recall many years ago, Karan, that I suggested they get one telephone line between the two offices because you sometimes wonder whether they even had that.

Ms. **English**. Mr. Chairman, it is more than the flow of dollars. What we have here are some very fundamental structural problems.

I use the Navajo reservation because I represent that area and it is the—there is the highest child welfare in Apache County than anywhere in the Nation. It is the very schools you talked about where I hear people say, "Well, what generation of Apple II computers do you have," when those buildings aren't even wired for computers at all.

And then we see complaints because the Native Americans rely on social services because they don't have economic opportunities. This is so fundamental to education to me. Why it's not understood is a mystery.

But it seems to me that if what we want to do is to raise the level of education for all Americans, including Native Americans, so that they—there is an opportunity and a competitive nature on and off reservations and those children need to have the same access to what I believe is the Department of Education which clearly has more money, clearly has more expertise in a lot of areas, and a very tremendous lack of understanding in the cultural differences.

The communication between those two offices has to increase. It has to increase. And I think it is one of the fundamental steps to trying to solve these problems of getting children educated.

Obviously, I'm passionate about this subject. I appreciate the time and I am sorry I have taken up so much time.

Chairman **Kildee**. Thank you very much. I appreciate having another strong advocate for Indian education on the committee, Karan. You have been very, very good in that and I welcome that very much.

Building Number Four is for OIE over there and that building is atrocious. The good news is Secretary Riley agrees. He is going to move people out of there. There is money asked for in the 1994 budget to completely redo Building Number Four.

There are a lot of agencies over there living in very, very deplorable conditions so, hopefully, if the budget process works and the President's budget is passed there will be money to make that building much more suitable for habitation.

Ms. Woolsey.

Ms. **Woolsey**. Thank you, Mr. Chairman, and thank you for holding this hearing. As a freshman I find it so helpful to become familiar with programs that we are looking at amending. These programs are so important and I truly appreciate this oversight format.

I join Congresswoman Mink and Congresswoman English in their sentiments that the Federal Government has a moral and ethical responsibility to educate all children, and that more than includes Native Americans and Native Hawaiians who have, historically, been subject to shameful retractions and agreements by our government.

And it is time that we took a good look, a good hard look, at how they have been treated and figure out how this Nation can keep its part of the bargain.

Now, you gave me an idea, Mr. Chairman. I have seen a lot of good-sized Hawaiian and good-sized Native American rugby players in the last year or so and I would suggest that maybe they could visit the OMB with the budget requests for these programs. Just deliver them. We don't have to beat them around or anything.

Most of the questions have already been asked today. But I have one, and it is really a challenge in that it has to do with our Goals 2000, the President's education reform and the Congressional reform.

I ask that you review it very carefully, get back to us, and make it very clear to us where the gaps can be filled that maybe this program hasn't quite plugged. We need to hear it, we need to hear it from you, and we need to hear it through your experiences.

I have heard today there are a lot of gaps. Now, I don't want to ask you to spend the next hour explaining to me where the gaps can be plugged but I would like you to do so in the future.

And to all three of you, I appreciate what you have brought to us today to help us make Goals 2000 the best for all of our children. Thank you.

Chairman KILDEE. Thank you, Ms. Woolsey. Mr. Payne.

Mr. PAYNE. Thank you very much. I certainly won't take very much of the time since you have to be at the White House at 12. You know, years ago no one on this side ever got invited to the White House so I don't want to spoil your party. Tell me how it is. I am going to try to get over there soon.

I would just like to say that last year I had the opportunity to visit an Indian reservation in New Mexico and we went to it with Major Owens' committee, went to a number of reservations looking at the special education needs and how difficult it was to even have children who have real learning disabilities to be able to be serviced with the distance, the lack of qualified teachers.

And I certainly agree with the fact that the Goals 2000 certainly need to be looked at. I think that many of them are impractical but I would I think all of the questions that I would have had, and I would associate myself with the remarks of the three Congresswomen who just left with the concerns that they have are the same concerns I have.

I do differ slightly though from Congresswoman English. I think that you are absolutely right when you say you are the first citizens, America's first citizens. That is exactly what you are. The fact that it has been—if everything was right then you would not have to say it.

If everyone had the same opportunity and were treated fairly and as American citizens then it would not be necessary, but I think that it is appropriate to make it clear and to remind people that your people were the first citizens. You were America's first citizens and, in my opinion, it is totally appropriate.

Thank you.

Chairman KILDEE. Thank you very much. I really appreciate this hearing. Several years ago I had probably the first real hearing on Indian education as such and it took us, I think, about the whole day—wasn't it, Alan—and it really opened our eyes as to what some of the great needs were out there for all our Native Americans, the Alaskans, the Hawaiians and the North American Indians.

You have been very helpful today. I really believe, as I said earlier, that we have moral, legal and in many, many instances, most instances, treaty obligations to educate the Native Americans.

I used to say in that winter of discontent, the first 2 years of Ronald Reagan, that if we were to drop all education programs, Federal education programs, we could not drop those for our Native Americans because of the treaties that you see down there at the National Archives. We really have that obligation so it is a moral, legal and treaty obligation.

I hope that this year in the reauthorization that we are especially sensitive to our responsibilities in that area and the three of you have been very, very helpful in both enlightening our mind and strengthening our will in doing this. We will be calling upon you further as we work our way through this authorization.

Mr. Goodling would like to make an observation.

Mr. GOODLING. Just to Dr. Butterfield that I agree wholeheartedly with your concern for better coordination. I don't agree with you in relationship to commingling of funds because I think if you are really going to have coordination and you are going to have some flexibility you are going to need some commingling of funds.

And I think I know what your fear is, but I think you can focus on where these funds are to go and by commingling probably bring about some more of that coordination that is sorely missing that you are talking about.

So I would hope that we could talk about that and see if we can't do that differently.

Chairman KILDEE. Thank you very much, and we will keep the record open for 2 weeks to allow for additional submissions to the record and at that the subcommittee will stand adjourned.

[Whereupon, at 12 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Additional material submitted for the record follows:]

FAXED 5/11/93 1:00 pm

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MAY 1993

May 11, 1993

The Honorable Dale E. Kildee
Chairman
Subcommittee on Elementary, Secondary, and Vocational Education
United States House of Representatives
320 Cannon Office Building
Washington, D.C. 20515-6101

Dear Chairman Kildee:

Thank you very much for your subcommittee's gracious invitation to testify on the Native Hawaiian Education Act programs on April 27, 1993. At the hearing Rep. Mink and Rep. Woolsey posed several questions to me. I would like to answer these questions fully by way of this letter.

1. Rep. Mink first asked my response to the Clinton Administration's decision not to seek funding for Native Hawaiian programs.

It is my understanding that the Clinton administration's first budget submission reflects the previous administration's policy in not seeking funds for the Native Hawaiian education programs. The Department of Education under the Bush Administration argued that no trust relationship existed between the Federal Government and Native Hawaiians in Hawai'i to justify special programs for Native Hawaiians; the department in effect repudiated the 34 federal statutes - including the Native Hawaiian Education Act - which recognized the special status of Native Hawaiians as Native Americans and which recognized the special relationship between Native Hawaiians and the Federal Government. I understand that the Clinton Administration is now reviewing the position which the department took under the previous administration.

Beyond the trust relationship, federal programs for Native Hawaiians are based on the premises that

- Native Hawaiians have verifiable social and educational needs; and
- existing federal and state programs are not meeting these needs.

In terms of needs, I am submitting for inclusion with my testimony an update of ongoing needs assessment studies (Attachment 1). It concludes that, while there are positive signs, educational needs persist for Native Hawaiians.

Department officials in the Bush Administration had argued that general federal programs address Native Hawaiian concerns and that specific programs directed at Native Hawaiians were therefore unnecessary. The fact that severe educational needs persist among Native Hawaiian children, despite years of federally funded programs such as Head Start and Chapter 1, proves however the inadequacy of these programs for the Native Hawaiian community. I believe there are two key reasons why such programs will not close the gap. First, for various reasons Native Hawaiian students are often not served by these programs. We estimate that approximately 64%, well over half, of all eligible Native Hawaiian children in Hawai'i are not being served by Head Start. Second, such programs cannot focus on the unique cultural needs of groups like Native Hawaiians.

2. Rep. Mink inquired about the administration of the Native Hawaiian Education programs and how this differs from general federal and state programs.

The United States Department of Education administers the different programs mandated by the Native Hawaiian Education Act; the department serves as the funding agency and exercises grant review. Various agencies, both public and private, in Hawai'i apply for these grants and carry out the programs under grant contracts entered into with the U.S. Department of Education.

Under the existing Native Hawaiian Education Act programs:

The Kamehameha Schools/Bishop Estate is the grant recipient for the:
- Family-Based Education Centers Program,
- Model Curriculum Project, and
- Higher Education Demonstration Program.

Aha Punana Leo is also a grant recipient for the Family-Based Education Centers Program.

The State of Hawai'i Department of Education is grant recipient for the Special Education section.

The University of Hawai'i at Hilo is grant recipient for the Gifted and Talented Program.

3. Rep. Mink also asked why I am recommending that the Model Curriculum section of the Act be amended and how the section should be re-drafted.

I am attaching a recommended re-wording of this section (Attachment 2). The rationale is that the previous wording was felt to be unnecessarily restrictive. It earmarked funding for disseminating the Kamehameha Elementary Education Program (KEEP), a successful language-arts program conducted by Kamehameha Schools in cooperation with the DOE. Our needs assessment has shown us that Native Hawaiian students also have needs in mathematics and science as well as in subjects such as social studies and history. We also have documented the need to reduce absenteeism and dropping out of school. In order to assist these students in reaching the kinds of goals set in the EDUCATION 2000 plan, we feel that successful programs which address these other need areas should be supported. While we appreciate the confidence felt in Kamehameha Schools/ Bishop Estate, we are comfortable with making this a competitive process, not specifying any one institution to be the sole recipient of federal funds. The ultimate goal of this portion of the Act should be to improve academic outcomes for Native Hawaiian students in grades K - 12.

Let me take this opportunity to recommend an additional measure which I had discussed with Mrs. Mink. To insure that the Native Hawaiian Education Act programs are properly implemented and that congressional objectives are attained, I recommend that the re-authorizing legislation require the U.S. Department of Education to evaluate the programs' operation and report its findings to your subcommittee midway through the authorization period so that corrective measures, if any, may be taken.

4. Representative Woolsey asked if President Clinton's proposed "Goals 2000: Educate America Act" adequately addressed Native Hawaiian educational needs.

The Native Hawaiian community is in the process of reviewing and assessing the President's proposal. We in the Native Hawaiian community are uncertain if the proposal will provide special programs for Native Americans who have unique cultural needs. We are deeply concerned about meeting the basic educational needs of Native Hawaiian children.

The needs assessment shows that Native Hawaiians are behind other students in terms of all six goals which the proposed Act would codify. There is no question that, if we can assist Hawaiian students to achieve at least parity with their peers on these goals, the nation as a whole would be closer to reaching its goals.

Thank you again for your consideration of our needs and recommendations. Please let me know if I can answer any further questions.

Sincerely,

Myron B. Thompson

Myron B. Thompson,
Trustee

cc: Representative Patsy Mink
Representative Lynn Woolsey

Attachment 1

Native Hawaiian Educational Assessment: 1993
Summary Report

April, 1993

Ormond W. Hammond, Director
Program Evaluation and Planning
Kamehameha Schools/Bernice Pauahi Bishop Estate

In 1983 the Kamehameha Schools/Bishop Estate (KS/BE) published the first Native Hawaiian Educational Assessment Project (NHEAP) Report. The NHEAP Report and follow-up studies have been used since 1983 to plan and support educational programs, including the federal Native Hawaiian Education Act. This report summarizes the most recent data available in April, 1993.

How many Native Hawaiian students are there in Hawai'i? U.S. census data have not been considered as accurate as data from the local agencies serving the diverse population groups in Hawai'i. Perhaps the best count of school-age Hawaiian students is by the State of Hawai'i Department of Education. Figure 1 gives the relative sizes of the major student population groups for school year 1992-1993.

This figure makes graphically clear that there is no one ethnic group which is a "majority" in Hawai'i's schools. Native Hawaiians are now the largest single group, and growing. This represents a change since 1983, when they were second largest, behind Caucasians. It should be noted that Hawai'i is unique among the states in having such a large percentage of a Native American group.

This report is organized around a set of goals which represents a composite of the nation's, the State of Hawai'i's, and Kamehameha Schools/Bishop Estate's education goals. How do Native Hawaiians fare on these goals?

1. All children will start school ready and eager to learn.

Risk factors for Native Hawaiian children start before birth. For years, Native Hawaiian women have sought prenatal care later in their pregnancies or not at all (Figure 2). In addition, in Hawai'i in 1990, 38% of all infant deaths, and 45% of all teenage mothers were Native Hawaiian.

Hawaiian youngsters enter kindergarten with lower vocabulary scores than other children (10th percentile: Peabody Picture Vocabulary Test-Revised, 1989-90) (Figure 3). The only major ethnic group with lower vocabulary scores is Filipinos, many of whom, as recent immigrants, have limited English language skills. Figure 3 also shows that this has not improved since 1982-83.

On the positive side, Kamehameha Schools' (KS) preschool programs are seeing dramatic improvement in vocabulary scores among their students. This improvement has been found to persist into kindergarten. KS preschool graduates score at the 30th percentile on national norms, above the state score of 18th percentile and other DOE Hawaiian children, who score at the 11th percentile.

2. Students will demonstrate competency in the basic skills of English and mathematics and in other challenging subject matter including science and social studies.

In achievement tests of basic skills, Hawaiian students continue to perform below national norms and other groups in Hawai'i. For example, on the Total Reading subtest of the Stanford Achievement Test administered by the State of Hawai'i Department of Education in the spring of 1991, Hawaiian sixth-grade students scored at the 37th percentile, the lowest of the four major ethnic groups (Figure 4).

Achievement test results show the same kind of decrement in performance of Native Hawaiian students in mathematics at grades 3, 6, 8 and 10. At sixth grade, Hawaiian students score at the 47th percentile on the Total Math subtest of the Stanford Achievement Test. By comparison, Filipino students in Hawai'i score at the 57th percentile, Caucasian students at the 71st percentile, and Japanese students at the 85th percentile (Figure 5).

The same layering effect, with Native Hawaiian students scoring the lowest, occurs in other subjects, including science and social science (Figures 6 and 7).

3. The high school graduation rate will increase while dropout and absenteeism rates drop.

While there are no data available on "graduation rates" by ethnicity, we can use enrollment and absenteeism figures to derive indices of dropping out. For example, for school years 1988-1991, approximately 17% of Hawaiian students enrolled in junior year were not enrolled in senior year. For all students statewide the rate was about 11%. While the figures for both groups dropped in 1991-1992 (Figure 8), it is too early to know if this represents a significant improvement.

Another index of dropping out is the "excessive absence" rate. The Department of Education keeps track of all students who miss more than twenty classes in one subject in any one semester. The average for Hawaiian students is higher than the statewide average. In 1991-92, approximately 18% of all Hawaiian secondary school students are considered excessively absent compared with 9% of non-Hawaiian students (Figure 9).

4. Adult literacy rates, along with college enrollment and completion rates, will increase.

A recent study in Hawai'i shows that Native Hawaiian adults have low literacy rates (Figure 10). Thirty percent are at the lowest level, defined as "adults who function with difficulty," compared with 19% of adults in the state as a whole. Once again, there are more adult Filipinos

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with low literacy levels, probably because many are new to the United States and are not native English speakers.

Hawaiian students also enroll in and complete higher education at rates below their peers. Figure 11, based on 1980 Census data, shows that only 9% of Native Hawaiians in Hawai'i ages 22 to 24 are enrolled in college, compared with a state figure of 18%. The national figure is 16%; for Blacks on the mainland, 14%; for Hispanics, 12%. The drop in enrollment rates shown in Figure 11 also indicate lower college completion rates for Native Hawaiians.

Showing a positive trend, Hawaiian enrollment rates at the University of Hawai'i have been steadily increasing (Figure 12). Hawaiian students now comprise 11% of the total enrollment in the University of Hawai'i system (four- and two-year schools), and over 6% of the student body at the four-year, baccalaureate-granting Manoa campus. This represents an average increase of approximately 10% per year for the past four years.

5. Schools will offer a nurturing yet disciplined environment conducive to learning.

Hawaiian students rank highest among the major ethnic groups in terms of alcohol and drug abuse in the state. On recent statewide surveys, Hawaiian students reported heavier use of alcohol and drugs than other students at all four grade levels surveyed (Figures 13 and 14 show Grade 12 results).

Figures 13 and 14 also show some good news: drug and alcohol usage rates declined between 1987 and 1989, and seem to have leveled off in 1991. There is guarded optimism that preventive education efforts are having a positive effect.

6. Students will develop a respect for and understanding of their own and others' cultures.

In 1993 the Hawaiian culture is alive and well. Of all the educational trends we have followed, this is the most positive. Two centuries of rapid change following Captain James Cook's visit to the Hawaiian Islands in 1778 had left a profound sense of culture loss for Native Hawaiians. There was fear that the people and the culture would simply disappear. A resurgence of interest in Hawaiian culture began in the 1960's and has increased throughout the next decades. While much work remains to be done, an enormous amount of progress has been made. Here is just a sampling of indicators:

- The 1978 State Constitutional Convention established both Hawaiian and English as the official languages of the state. Starting in 1983, seven Hawaiian language immersion preschools, Punana Leo, have opened across the state. The Department of Education now conducts Hawaiian immersion elementary education classes in five schools. Figure 15 shows the rapid growth in enrollment in Hawaiian language immersion programs.

- Hawaiian history and culture are required courses in the Department of Education in the fourth and seventh grades and other courses are offered as electives in high school.

- Thousands of people, Hawaiian and non-Hawaiian, participate annually in events such as the Merrie Monarch Hula Festival in Hilo and the Moloka'i to O'ahu Outrigger Canoe race.
- The voyages of the Hawaiian sailing canoe, Hokule'a, have stimulated interest throughout the Pacific in Polynesian voyaging. They have generated a renewed pride in the navigational feats of the peoples of the Pacific.

Summary

There are continuing gaps between the educational attainment of Native Hawaiians and other ethnic groups as well as the State of Hawai'i as a whole. In particular, Hawaiian students start school behind others in vocabulary, their scores in basic skills continue to lag, and absenteeism remains high. Unfortunately, broad educational programs such as Chapter 1 have not been successful at closing these gaps. The newer programs which specifically serve Native Hawaiians such as those funded by the Native Hawaiian Education Act have not been in existence long enough for us to see long term effects.

There are some short-term indicators of success, however. Improvement of vocabulary scores among Hawaiian youngsters in preschools, reductions in drug and alcohol use, and increases in college enrollment are all positive signs.

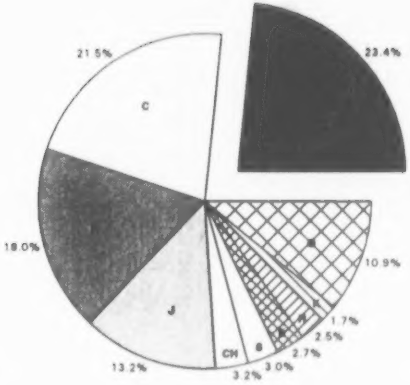
The broad-based interest in the Hawaiian language and culture continues to grow and can provide an important stimulus for further educational improvement. The voyages of the Hokule'a illustrate this symbiosis of culture and education.

The fact that needs start even before birth indicates that it is particularly important to start educational efforts at the very early ages. As more and more Hawaiian students start school ready and eager to learn the other indicators will move in a positive direction.

FIGURE 1

Ethnicity of Students Enrolled

by the Hawai`i DOE, 1992-93



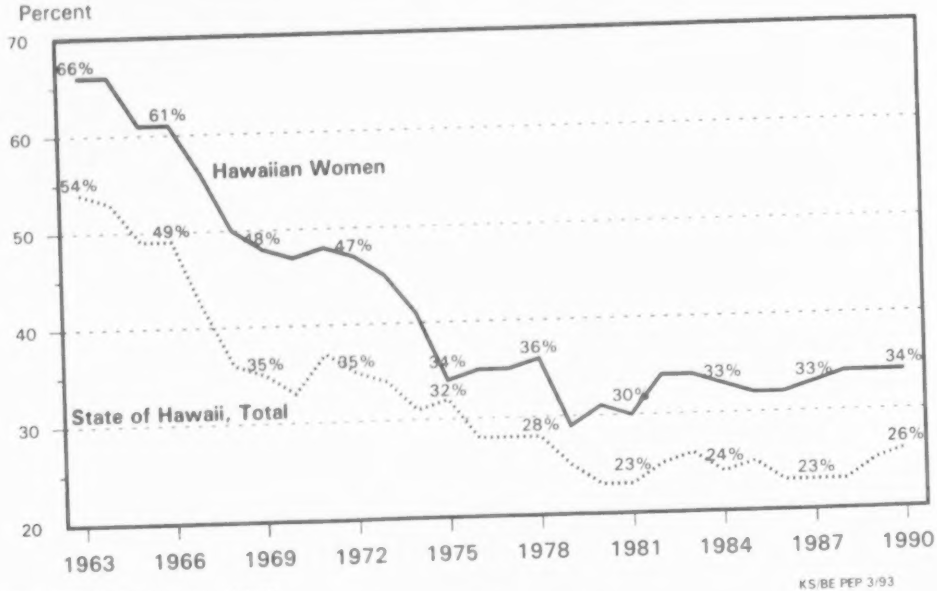
KEY	Ethnicity	Number	Percent
■	Hawaiian	41,477	23.4%
C	Caucasian	38,025	21.5%
F	Filipino	31,945	18.0%
J	Japanese	23,313	13.2%
CH	Chinese	5,659	3.2%
S	Samoan	5,288	3.0%
B	Black	4,803	2.7%
H	Hispanic	4,404	2.5%
K	Korean	2,943	1.7%
O	Other	19,252	10.9%
	Total Enrollment	177,109	100.0%

Source: State of Hawai`i Department of Education

FIGURE 2

Late or No Prenatal Care

State and Hawaiians, 1963 - 1990



Source: State of Hawaii, Department of Health

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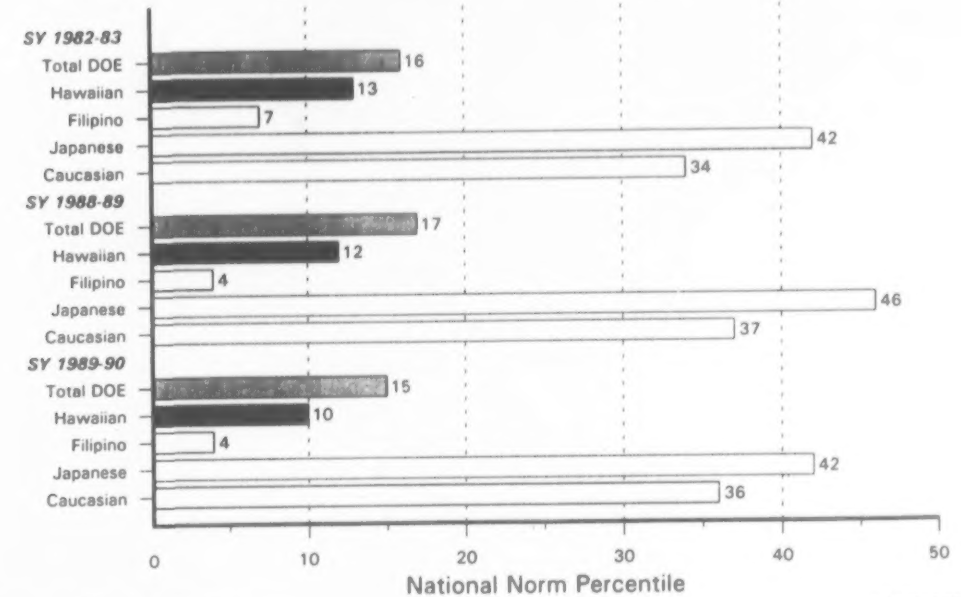
FIGURE 3

Kindergarten PPVT-R (Vocabulary) National Percentiles

State DOE, Hawaiian, Filipino, Japanese, and Caucasian

School Years 1982-83, 1988-89, 1989-90



Source: State of Hawai'i Department of Education

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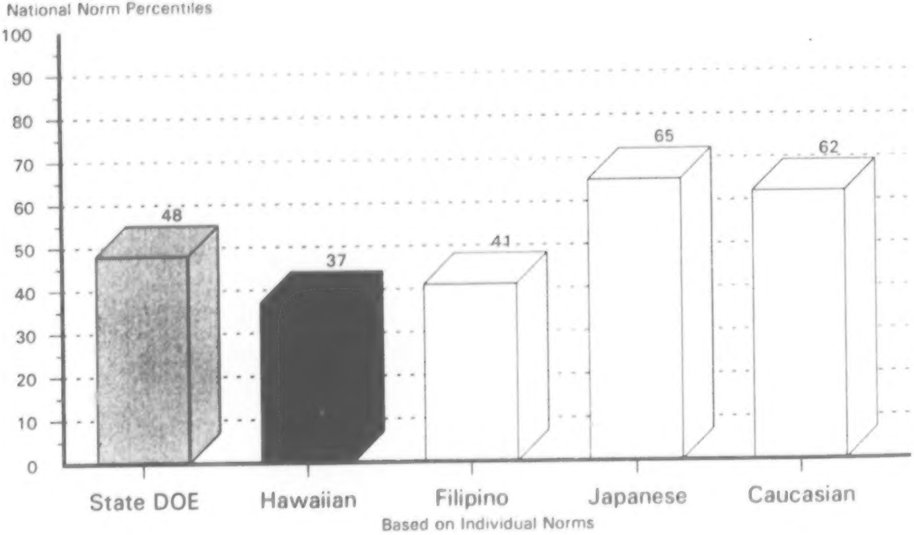
FIGURE 4

Total Reading

Sixth Grade Percentile Ranks
School Year 1990-91



Source: State of Hawai i Department of Education

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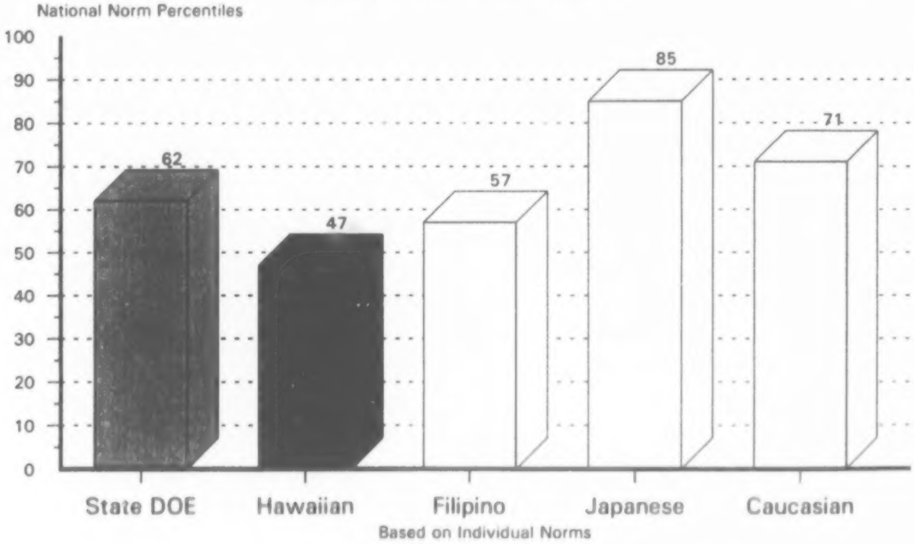
FIGURE 5

Total Math

Sixth Grade Percentile Ranks
School Year 1990-91



Source: State of Hawai`i Department of Education

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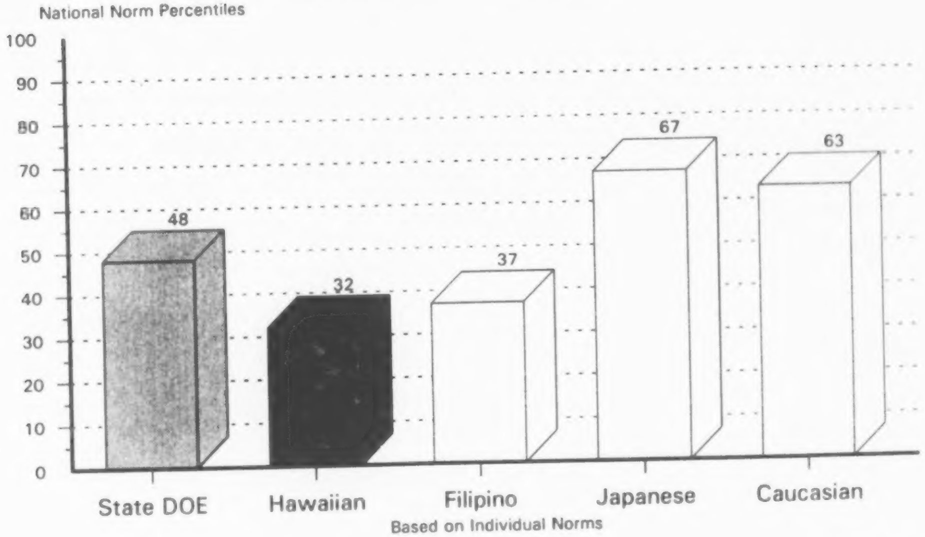
FIGURE 6

Science

Sixth Grade Percentile Ranks
School Year 1990-91



Source: State of Hawai'i Department of Education

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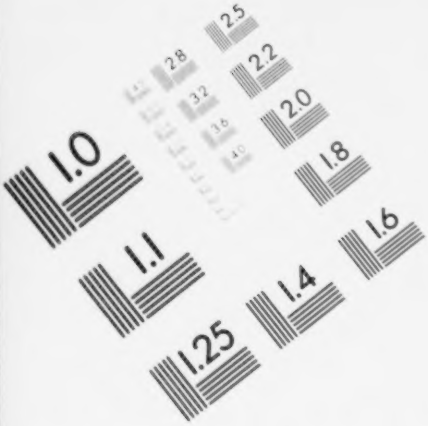
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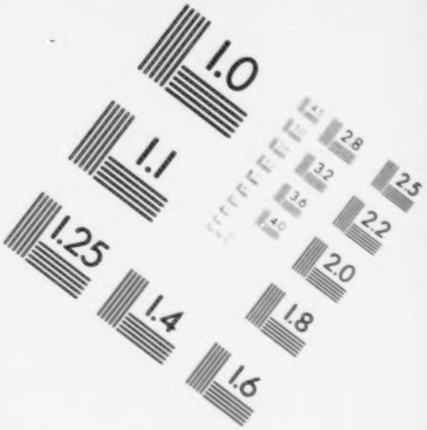
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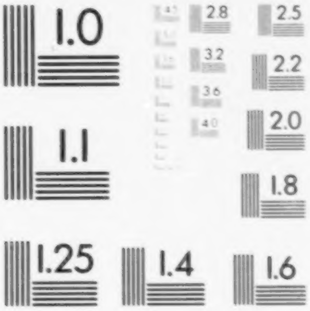
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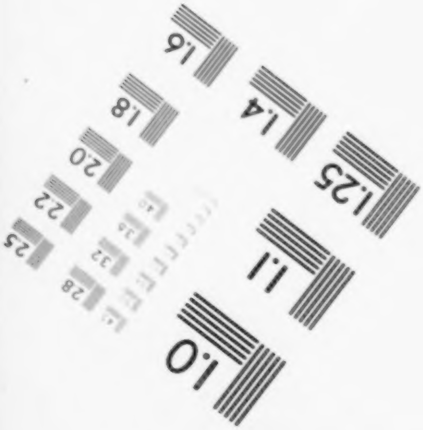
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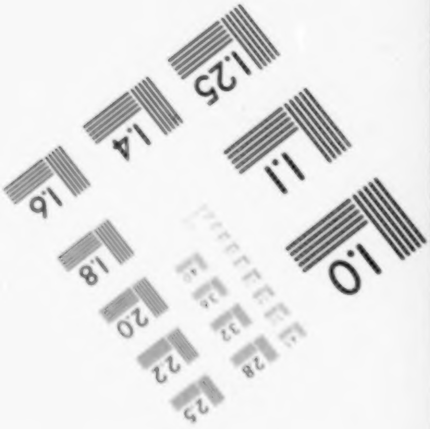
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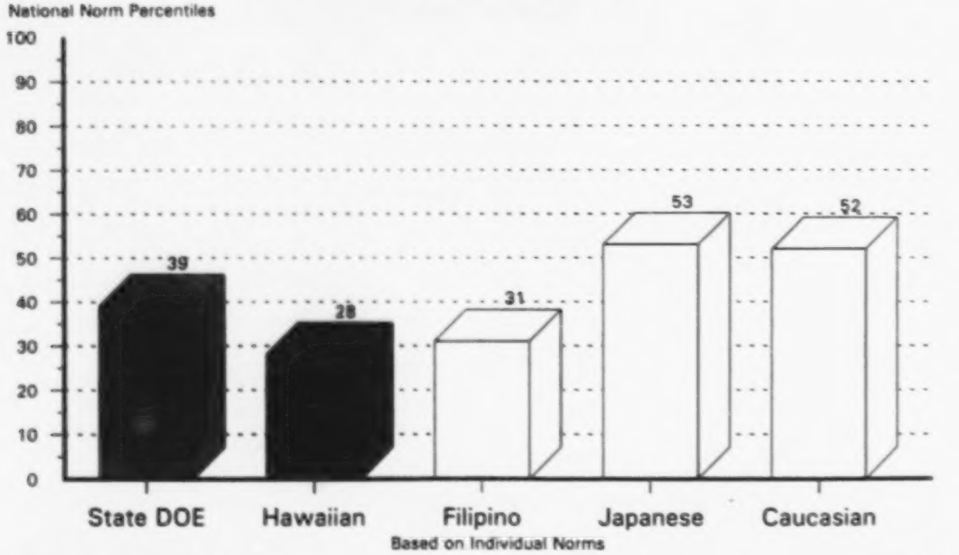
FIGURE 7

Social Science

Sixth Grade Percentile Ranks

School Year 1990-91



Source: State of Hawai`i Department of Education

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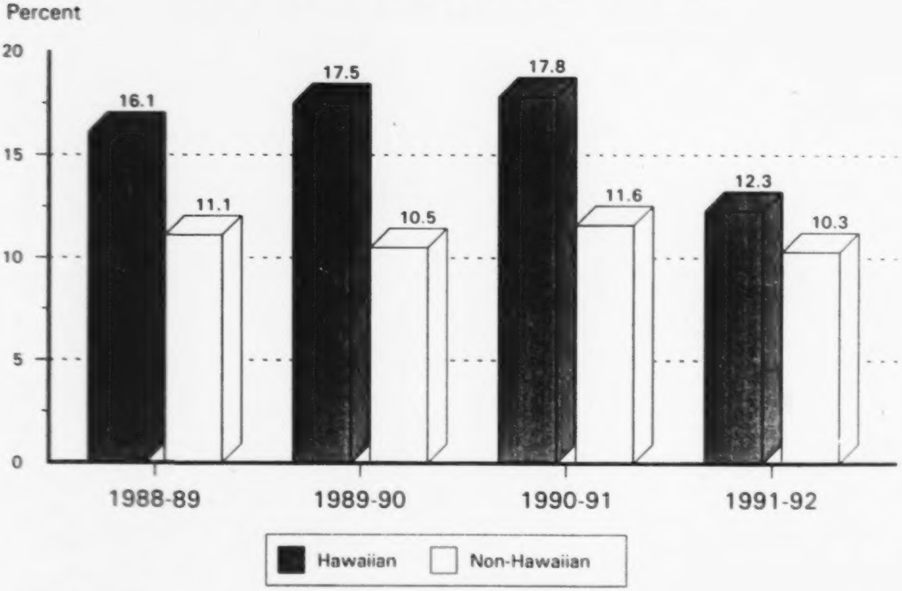
FIGURE 8

Dropouts: DOE Students from Grade 11 to Grade 12

School Years 1988-89 through 1991-92

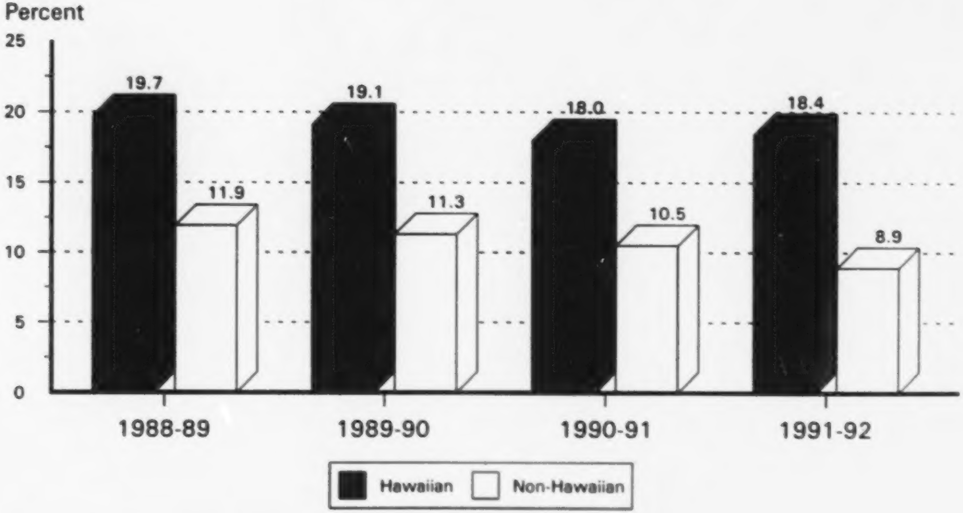


Source: State of Hawaii - Department of Education

KS/BE PEP 3/93

FIGURE 9

Excessive Absences: DOE Students in Grades 7-12 School Years 1988-89 through 1991-92



Excessive absence: Absence from any one class more than 20 times per semester

Source: State of Hawai`i Department of Education

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FIGURE 10

State of Hawai`i Literacy Levels

Level One Adults by Ethnicity

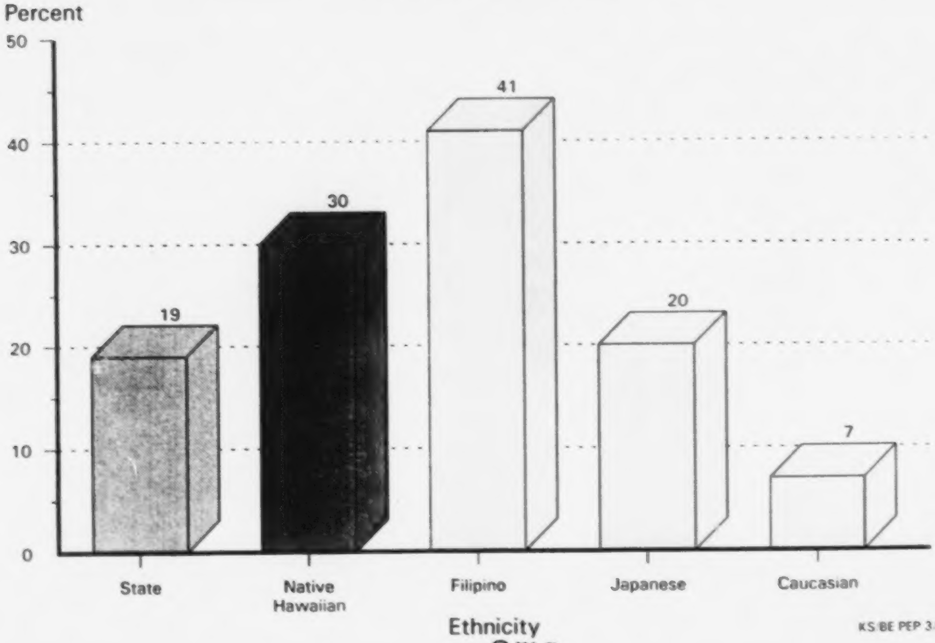

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FIGURE 11

Enrollment in School and College

U.S. Census, 1980

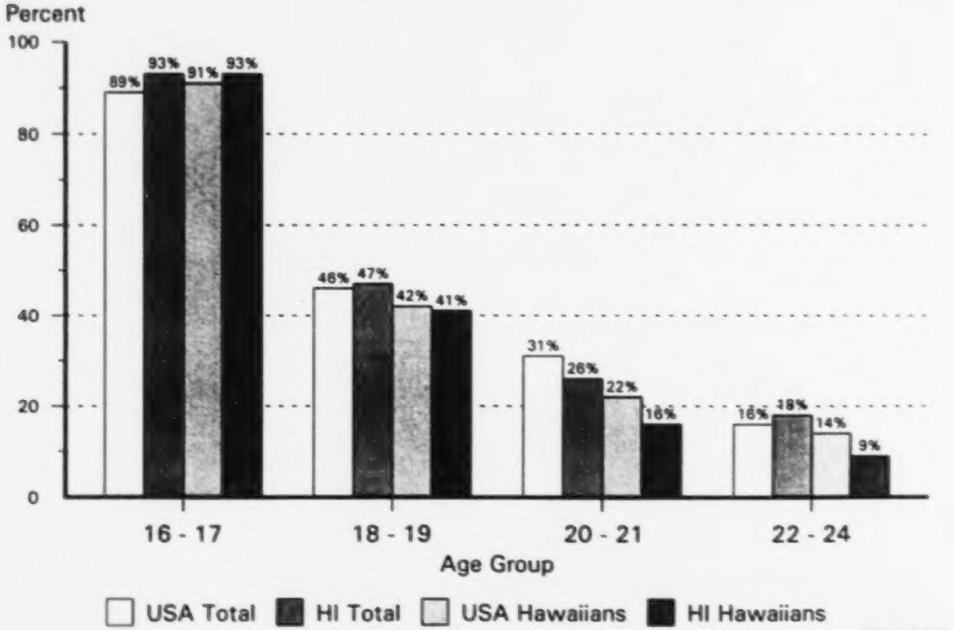

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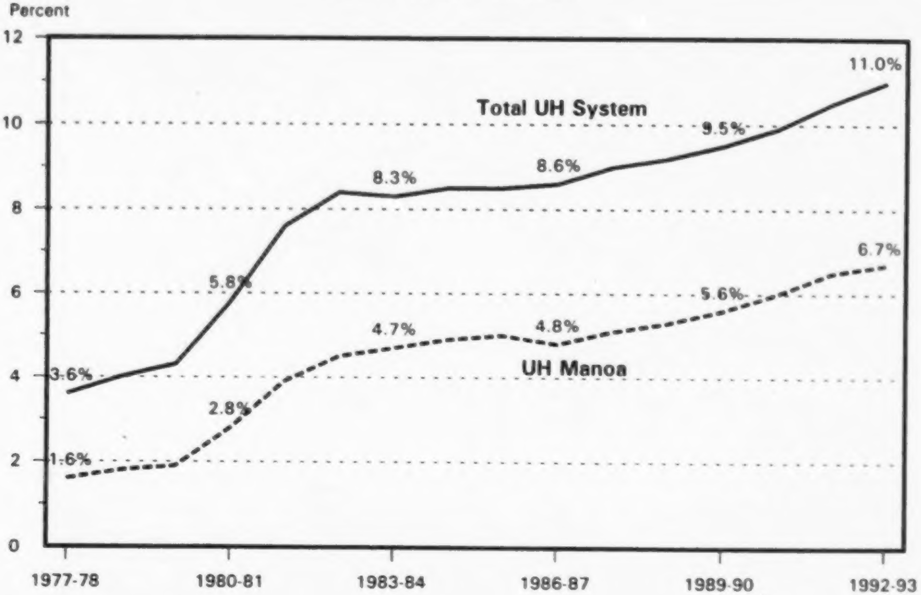
FIGURE 12

Hawaiian Enrollment in the University of Hawaii System

School Years 1977-1993



Source: Fall Enrollment Reports (Annually),
Institutional Research Office, University of Hawai'i

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FIGURE 13

Drug Use, All DOE and DOE Hawaiian Students

Low, Moderate, and High Use, 1987, 1989, & 1991

12th Grade

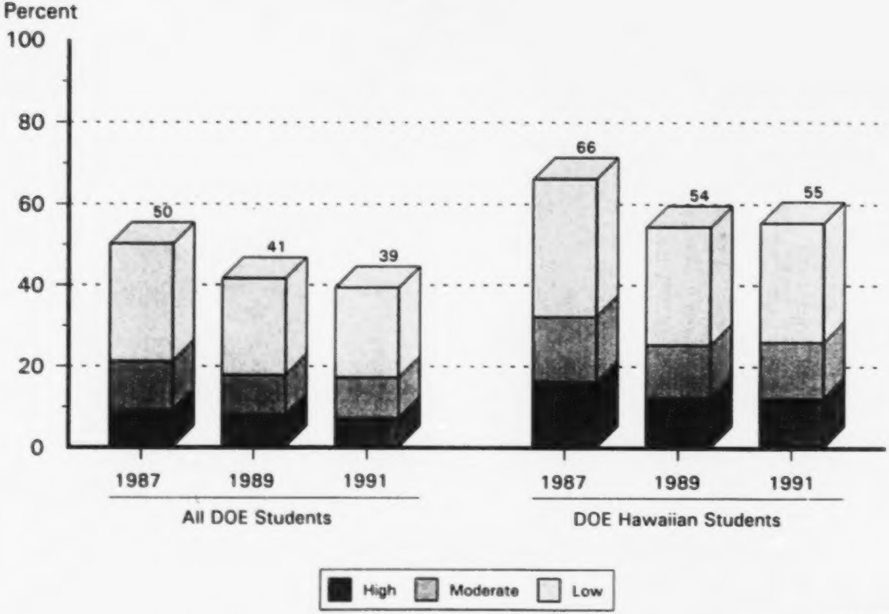

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FIGURE 14

Alcohol Use, All DOE and DOE Hawaiian Students

Low, Moderate, and High Use, 1987, 1989, & 1991

12th Grade

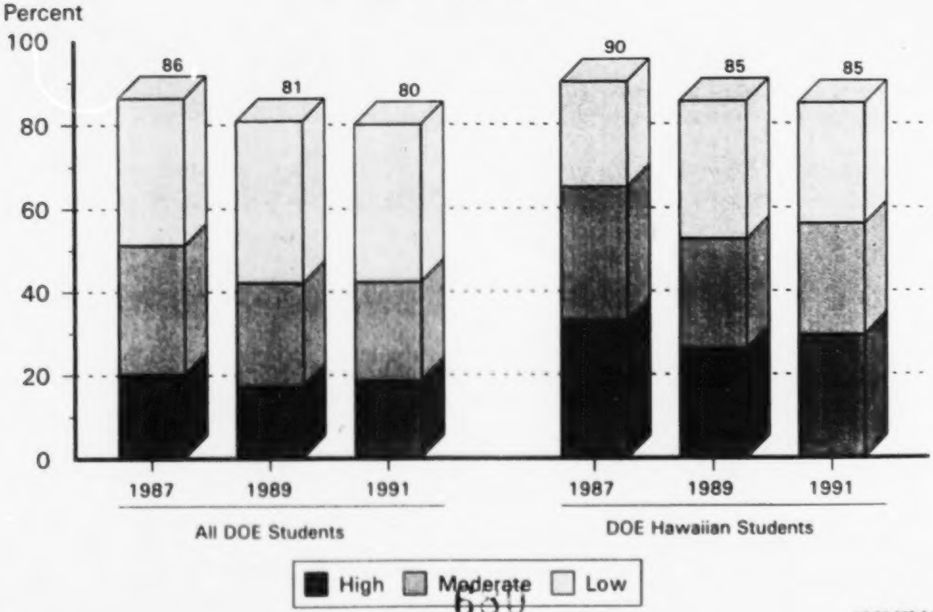

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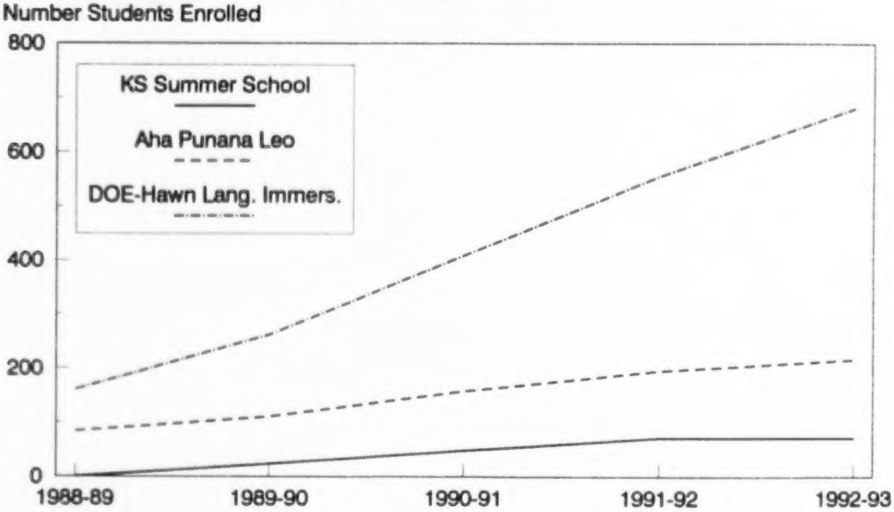
FIGURE 15

Hawaiian Language Immersion Programs

School Years 1988 - 1992



Source: State of Hawai'i Department of Education
Aha Punana Leo, Inc.
KS Summer Programs

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Attachment 2

NATIVE HAWAIIAN ACADEMIC OUTCOMES IMPROVEMENT PROGRAM.

(a) ACADEMIC OUTCOMES IMPROVEMENT PROJECT GENERAL AUTHORITY. The Secretary shall make direct grants to Native Hawaiian Organization (including Native Hawaiian Educational Organizations, the State of Hawai'i Department of Education or the University of Hawai'i to develop and operate projects to improve academic outcomes for Native Hawaiian Students in grades K-12. Such projects operated under this section may include:

(1) reading and language skills improvement programs;

(2) math and science skills improvement programs;

(3) social science skills, including geography and history, improvement programs;

(4) programs which improve student motivation and perseverance in school;

(5) curriculum research and development to support projects in the above areas; and

(6) appropriate evaluation of the projects authorized by this section.

(b) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated such sums as may be necessary for fiscal years 1994 through 2002. Such funds shall remain available until expended.

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